

## TABLE OF CONTENTS

	Page
<u>SECTION ONE</u>	
<u>INTRODUCTION</u> . . . . .	1
<u>SECTION TWO</u>	
<u>FAMILY LAW DIVISION PRACTICE GUIDE</u> . . . . .	2
I     STRUCTURE OF THE FAMILY LAW DEPARTMENT . . . . .	2
II    FAMILY LAW FACILITATOR . . . . .	5
III   ALTERNATIVE DISPUTE RESOLUTION . . . . .	6
IV    COURTCALL/TELEPHONIC APPEARANCES . . . . .	6
V     TEMPORARY RESTRAINING ORDERS/EX PARTE ORDERS . . . . .	7
A.   Ex Parte Orders . . . . .	8
1. Hearing Dates and Times . . . . .	8
2. Declaration Required . . . . .	8
3. Conditions for Issuance of Ex Parte Orders . . . . .	9
4. Exception to Ex Parte Notice . . . . .	10
5. Exclusive Use of a Vehicle . . . . .	11
6. Stay Away Order . . . . .	11
7. Set Aside of Ex Parte Order . . . . .	11
8. Emergency Nature of Request . . . . .	11
B.   Domestic Violence Orders . . . . .	12
1. Declarations Required . . . . .	12
C.   Order Shortening Time . . . . .	14
VI    ORDER TO SHOW CAUSE AND MOTION CALENDARING . . . . .	15
A.   Hearing Dates and Times . . . . .	15
B.   Continuances . . . . .	16
C.   Unserved Orders to Show Cause . . . . .	17
D.   Matters Taken Off Calendar . . . . .	18
E.   Required Parenting Class Fees with First Order to Show Cause (OSC) Involving custody . . . . .	18
F.   Mediation . . . . .	18
VII   JUDGMENTS FOR DEFAULTS OR UNCONTESTED MATTERS AND JUDGMENTS AFTER TRIAL . . . . .	19
A.   General Policy . . . . .	19
B.   Format of Judgment . . . . .	20

C.	Application for Judgment Nunc Pro Tunc . . . . .	21
D.	Documents . . . . .	21
E.	Duties of the Clerk . . . . .	22
VIII	PLEADINGS AND TIME LIMITATIONS . . . . .	23
A.	Statement of Purpose . . . . .	23
B.	Service of Documents . . . . .	23
C.	Cases Initiated by District Attorney . . . . .	25
D.	Presence of Parties and Attorneys . . . . .	25
E.	Failure to Appear . . . . .	26
F.	Tardiness . . . . .	26
G.	Pre-Hearing Settlement Efforts . . . . .	26
H.	Calling the Calendar . . . . .	27
I.	Presentation of Evidence . . . . .	28
J.	Attorneys' Calendar . . . . .	29
K.	Witnesses . . . . .	29
L.	Time Estimates Exceeded . . . . .	29
IX	SETTING TRIALS AND HEARINGS . . . . .	29
A.	Settings . . . . .	29
B.	Status Conference . . . . .	31
C.	Mediation . . . . .	32
D.	Trial Readiness Conference . . . . .	33
E.	Trial Preparation . . . . .	33
F.	Conference with Trial Judge . . . . .	36
G.	Trial - Documentary Evidence . . . . .	36
H.	Personal Property - Arbitration . . . . .	37
X	PREPARATION OF ORDERS . . . . .	38
<u>SECTION THREE    SUGGESTED APPROACHES TO SUBSTANTIVE ISSUES</u> . . . . .		40
I	PROPERTY DIVISION ISSUES . . . . .	40
A.	RETIREMENT PLAN ISSUES . . . . .	40
1.	Defined Contribution Plan . . . . .	40

	2. Defined Benefit Retirement Plan . . . . .	41
	3. Presentation of QDROs for Signature by the Court .	42
B.	EPSTEIN CREDITS/WATTS CHARGES. . . . .	43
	1. Basic Policy Regarding Epstein Credits And Watts Charges . . . . .	43
	2. Epstein Credits . . . . .	43
	3. Watts Charges . . . . .	45
C.	TRACING AND OTHER ACCOUNTING BASED CLAIMS. . . . .	46
D.	LOANS FROM FAMILY AND FRIENDS. . . . .	47
E.	GIFTS. . . . .	47
F.	BUSINESS EVALUATIONS . . . . .	48
G.	ACCRUED VACATION AND SICK PAY. . . . .	49
H.	MOTOR VEHICLES . . . . .	49
I.	DIVISION OF HOUSEHOLD FURNISHINGS. . . . .	49
II	SUPPORT . . . . .	50
A.	CHILD SUPPORT . . . . .	50
	1. Computer Program . . . . .	50
	2. Timeshare . . . . .	51
	3. Hardship Claims . . . . .	52
	4. Expenses for Adult Children/Stepchildren . . . . .	53
	5. Determining Income . . . . .	53
	6. Bonus and Overtime Income . . . . .	54
	7. Expenses for Visitation . . . . .	55
	8. Health Care/Uninsured Costs . . . . .	55
B.	SPOUSAL SUPPORT . . . . .	56
	1. Temporary Spousal Support . . . . .	56
	2. Permanent Spousal Support . . . . .	56
	3. Modification of Permanent Spousal Support . . . . .	57
C.	FAMILY SUPPORT . . . . .	57
	1. Temporary Family Support . . . . .	57
	2. Permanent Family Support . . . . .	58
	3. Dependency Exemptions . . . . .	58
III	ATTORNEY'S FEES AND COSTS . . . . .	58
A.	BASIC POLICY . . . . .	58
B.	PRE-TRIAL ATTORNEY'S FEES . . . . .	58
C.	FEE ORDERS AT TRIAL . . . . .	59
IV	CUSTODY AND VISITATION . . . . .	60
A.	BASIC POLICY . . . . .	61

B.	MEDIATION . . . . .	61
C.	SETTING A MATTER FOR MEDIATION . . . . .	64
D.	MEDIATION PROCESS . . . . .	66
E.	MEDIATION ORDERS . . . . .	68
F.	PARENTING CLASS . . . . .	69
G.	MEDIATION PROBLEMS . . . . .	69
H.	CONTESTED HEARINGS/TRIALS . . . . .	70
I.	SEVERANCE OF CUSTODY HEARING . . . . .	72
J.	CHILDREN'S TESTIMONY . . . . .	72
K.	PRESENCE OF CHILDREN . . . . .	72

<u>SECTION FOUR</u>	<u>MODIFICATION OF THE MANUAL OF</u>	
	POLICIES AND PROCEDURES . . . . .	73

SECTION FIVE    APPENDIX - FAMILY LAW FORMS

Exhibit "A"	Family Law Direct Calendar
Exhibit "B"	Notice of Assignment for All Purposes
Exhibit "C"	Notice of Assignment and Status Conference
Exhibit "D"	Alternate Dispute Resolution Policy Statement
Exhibit "E"	Family Law Status Conference Statement
Exhibit "F"	Courtcall Information
Exhibit "G"	Child Support Calculations Worksheet
Exhibit "H"	Family Law Mediator's Report
Exhibit "I"	Stipulation and Order Re Continuances
Exhibit "J"	Request for Default Setting
Exhibit "K"	Domestic Judgment Worksheet
Exhibit "L"	Notice of Intent to Offer Oral Testimony
Exhibit "M"	Joint At-Issue Memorandum
Exhibit "N"	Certificate of Non-Compliance
Exhibit "O"	Fredman Form
Exhibit "P"	Judicial Council Pension Joinder Form
Exhibit "Q"	IRS Form 8332 - Release of Exemption

## SECTION ONE

### INTRODUCTION

The guidelines set forth in the San Luis Obispo County Family Law Division Policies and Procedures Manual have been drafted and approved by the San Luis Obispo County Bar Association's Family Law Section and approved by the San Luis Obispo County Superior Court. These guidelines are a supplement to the San Luis Obispo County Rules of Court.

They are designed and intended to provide the following:

(1) Inform counsel and self-represented parties (pro per) of the structure and manner of operation of the Family Law Department in San Luis Obispo County. Any reference to "counsel" in this document also includes any unrepresented party who is acting as their own attorney.

(2) Assist counsel and self-represented parties in the manner in which documents are prepared and presented to the court.

(3) Provide counsel and self-represented parties with information to assist them in obtaining and completing the appropriate Judicial Council forms and local forms to facilitate the processing of paperwork by the clerk's office. A Family Law Facilitator is available to assist litigants with the preparation and completion of paperwork. **To determine the dates and times the Family Law Facilitator and staff are available, you may call (805) 546-4350.**

The area of Family Law is a dynamic and rapidly developing area of the law. Statutes, case law, and court rules frequently change. These policies and procedures do not take precedence over applicable law. Every effort has been made to ensure that the policies and the procedures set forth herein are consistent with applicable law.

## SECTION TWO

### FAMILY LAW DIVISION PRACTICE GUIDE

It is the policy of the Family Law Department to encourage

settlement or alternative dispute resolution at all stages of the proceedings. Particularly where minor children are involved, the goal is to reduce hostilities and facilitate resolution of all issues. If court intervention, including case management is appropriate, the Family Law Department encourages it to occur early in the proceedings.

I. STRUCTURE OF THE FAMILY LAW DEPARTMENT

Two or more judicial departments of the court will be designated as the Family Law Department of the Superior Court of San Luis Obispo County. One of the judicial officers shall be designated by the Presiding Judge of the court as the Supervising Judicial Officer of the Family Law Department of the court. Assignments for judicial officers generally commence in January of each year on an annual basis. Commencing December 1, 2002, family law matters will be directly calendared to a judicial officer for all purposes. A copy of the Family Law Direct Calendar is marked as Exhibit "A" in the Appendix hereto. Family law cases filed prior to December 1, 2002, will be sent a Notice of Assignment for All Purposes. A copy of this notice is marked as Exhibit "B" in the Appendix attached hereto.

One of the departments will hear a calendar which deals with matters in which the Department of Child Support Services or such other governmental agency assigned to deal with child support collection has an interest.

Actions filed under the Domestic Violence Prevention Act shall be considered for Restraining Orders (ex parte orders) by the judicial officer hearing the Domestic Violence Calendar. Applications for restraining orders shall be presented on appropriate Judicial Council forms to the Clerk's Office. Generally, such actions will be calendared by the clerk's office for hearing on the Domestic Violence Calendar.

The restraining order and related issues will be heard on the Domestic Violence Calendar if no family law action has been filed.

If a family law action has also been filed, the judicial officer assigned to the Domestic Violence Calendar will hear the restraining order request and will then refer the matter to the judicial officer assigned for all other purposes. The judicial officer may make temporary orders pending the assignment.

The Family Law Department is operating under a direct calendaring system. When a case is filed, it is immediately assigned to a judicial officer for all purposes and a status conference is set for 180 days later. The clerk will provide the following forms at the time of filing of any petition:

1. Notice of Assignment and Status Conference (Exhibit “C” in the Appendix)
2. Alternate Dispute Resolution Policy Statement (Exhibit “D” in the Appendix)
3. Blank Status Conference Statement (Exhibit “E” in the Appendix)

In addition to other required documents, the Petitioner or moving party shall serve the following documents on the responding party:

1. Notice of Assignment of Status Conference (Exhibit “C” in the Appendix)
2. Alternate Dispute Resolution Statement (Exhibit “D” in the Appendix)
3. Blank Status Conference Statement (Exhibit “E” in the Appendix)

A challenge under section 170.6 of the Code of Civil Procedure is considered timely to the judicial officer to whom the case has been assigned if the challenge is exercised within ten (10) days of service of the Notice of Assignment, or the filing of a Petition. The responding party has ten (10) days after filing any document to assert a challenge under section



170.6 of the Code of Civil Procedure, in the absence of the Petitioner having filed a proof of service of the Notice of Assignment.

When a case has been transferred from another jurisdiction, upon receipt of the file, the clerk will assign the case to a judicial officer for all purposes and the clerk will give the moving party the documents that the moving party must then provide to the other party (Notice of Assignment and Status Conference, Alternate Dispute Resolution Policy Statement, and Blank Status Conference Statement). The moving party will then be required to serve these documents on the responding party. Any challenge under section 170.6 of the Code of Civil Procedure thereafter shall be considered timely if done in accordance with the procedures set forth herein for an initial filing.

(Amended Effective 12/1/02)

If there is a companion matter already set on the Family Law Calendar, the clerk shall upon request set the Domestic Violence action on the Family Law Calendar to be heard at the same time as the remaining matters, unless otherwise instructed by a judicial officer.

## II. FAMILY LAW FACILITATOR

The San Luis Obispo Superior Court has appointed a Family Law Facilitator pursuant to Family Code section 10000, who serves the court as a part-time independent contractor. The office of the Family Law Facilitator shall continue to exist for such period of time as funding is available.

Generally, parties are rendered services on a “first come, first served basis.” Commencing December 1, 2002, the Facilitator is available in the County Government Center on Tuesday, Wednesday, and Thursday mornings from 8:30 a.m. to 11:30 a.m. There is also an

evening session from 6:00 p.m. to 9:00 p.m. The Facilitator information line has updated information. The telephone number is (805) 546-3769.

(Amended Effective 12/1/02)

The Family Law Facilitator administers a program which provides services set forth in Family Code Section 10002, including, but not limited to:

(1) Providing educational materials and information regarding the preparation of forms relating to parents concerning the process of establishing parentage and establishing, modifying, and enforcing child and spousal support in the courts;

(2) Developing and providing educational materials for self-represented litigants (pro per) concerning how to (a) initiate or respond to a petition for dissolution, legal separation or annulment of marriage action, (b) perform the disclosure requirements in a dissolution or separation action (c) process defaults in dissolution, separation, or annulment actions, (d) complete the processing of a dissolution of marriage, legal separation, or annulment action, (e) initiate or respond to a domestic violence restraining order, (f) establish or modify orders for child custody or visitation (g) make a request for other relief in family law actions, (h) schedule and serve a request for Family Court Services mediation, and (i) schedule or respond to an ex parte hearing in an emergency situation

(3) Providing assistance to pro per litigants regarding the preparation of required forms to process any of the above.

The Family Law Facilitator's services are provided to all pro per litigants, including opposing parties to any matter. **The Facilitator and staff do not provide legal advice or representation, and statements made to the Facilitator are not confidential.**

### III. ALTERNATIVE DISPUTE RESOLUTION

It is the policy of the San Luis Obispo Superior Court to promote and encourage the parties to settle their disputes by the use of Alternative Dispute Resolution, which includes mediation, arbitration, neutral evaluation, and/or court supervised settlement conference. The parties and counsel are encouraged to review the Alternative Dispute Resolution Policy Statement which is attached as Exhibit “D” in the Appendix hereto for more specific and detailed information.

(Effective 12/1/02)

### IV. COURTCALL/TELEPHONIC APPEARANCES

Counsel and self-represented litigants may make telephonic appearances in certain hearings by making appropriate arrangement with CourtCall and submitting a request, whenever possible, for a CourtCall telephone appearance. A copy of the Memorandum Request for CourtCall Telephonic Appearance and information on How To Use CourtCall are in the Appendix hereto marked as Exhibit “F”. Generally, CourtCall may be utilized for appearances at ex parte hearings, Orders to Show Cause, Law and Motion matters, Trial Setting Conference, and Trial Readiness calendars. Each judicial officer’s use of a telephonic appearance by CourtCall may vary. Counsel and self-represented litigants should contact CourtCall for further details.

(Amended Effective 12/1/02)

A CourtCall appearance is made as a part of the court’s regular calendar call and all counsel who have timely filed their request form and paid the fee may appear by dialing the courtroom’s dedicated toll free teleconference number, and access code (if any) which will be provided by CourtCall, LLC on the confirmation faxed to your office. A pre-hearing check-in will

occur five (5) minutes prior to the scheduled hearing time. A CourtCall appearance is voluntary and may be made without consent of the other party or advance consent of the Court, which, however, reserves the right to reject any request. In matters where only one party elects to make a CourtCall appearance, the matter will be heard on the court's speaker phone.

## V. TEMPORARY RESTRAINING ORDERS/EX PARTE ORDERS

Ex parte requests often provide the foundation for granting temporary restraining orders. Ex parte orders frequently are rendered without giving the opposing party an opportunity to present evidence. Accordingly, attorneys, parties, and services employed to type pleadings shall adhere to the highest standards of good faith and honesty in preparing declarations in support of ex parte orders.

THERE IS AN ABSOLUTE DUTY TO DISCLOSE THE FACT THAT A REQUESTED EX PARTE ORDER WILL RESULT IN A CHANGE OF THE STATUS QUO EXISTING BEFORE ANY CONTROVERSY AROSE.

### E. Ex Parte Orders

#### 1. Hearing Dates and Times

The moving party shall contact the clerk's division at (805) 781-1373 to schedule family law and ex parte hearings, which are heard each week at 8:00 a.m. on Monday, Wednesday, and Friday. Once the limit of six (6) ex parte hearings (2 per judicial officer) has been set for each of the designated days, additional hearings may be added at dates and times convenient to the judge to whom the matter is assigned. The moving party shall give notice to the other party or their attorney of record of the ex parte hearing no later than 10:00 a.m. the court day before the ex

parte appearance, absent a showing of exceptional circumstances. The moving party shall present to the judge a declaration stating the method of notice, or lack thereof, what was told the responding party and that the responding party was told he or she had a right to be present, both in person and by counsel. If exceptional circumstances are claimed, they must be specifically stated.

(Amended Effective 12/1/02)

## 2. Declarations Required

Specific declarations must support requests for ex parte orders. Conclusions, feelings, wishes or fears will not adequately support an ex parte order. All declarations, including domestic violence restraining orders, shall contain sufficient factual information within the personal knowledge of the declarant which adequately supports the relief requested. A very specific declaration must be given, including the dates of incidents, descriptive facts and specific harm caused, when seeking orders for temporary custody, restriction of visitation, or removal of one party from the family residence. Code of Civil Procedure Section 446 is not available as a means of providing for attorney verification of declarations.

## 3. Conditions for Issuance of Ex Parte Orders

a. Before submitting ex parte orders for a judge's signature, parties must comply with Family Code sections 241, 3062, 3120, 3409, 7710, and Rules of Court, Rule 1225, including all requirements for declarations explaining that notice to the other party has been given, or the reason notice has not been given.

b. The party requesting ex parte orders must inform the judge in writing whether the opposing party is represented by counsel or is unrepresented.

c. If the opposing party has retained counsel, the moving party must inform the judge by declaration of the name, address, and telephone number of opposing counsel, and

whether or not notice has been given by at least 10:00 a.m. the court day prior to the ex parte hearing to the opposing counsel so that he or she may have the opportunity to oppose the application in chambers.

d. Notice may be excused if, following a good faith attempt, the giving of notice is not possible, or if the opposing attorney does not object to the ex parte orders sought, or if notice ought not to be required. The foregoing must be established by declaration.

e. When the opposing party is not represented by counsel, notice must be given to the party by at least 10:00 a.m. the court day prior to the hearing and it must include the date, time and place the request will be made, and the nature of the request, so that the party may have an opportunity to oppose the application. Notice may be excused if, following a good faith attempt, the giving of notice is not possible, or if the opposing party does not object to the ex parte orders sought, or if notice ought not to be required. The foregoing must be established by declaration.

f. Notice may be excused if the giving of such notice would frustrate the very purpose of the order and lead the applicant to suffer immediate and irreparable harm. The foregoing must be established by declaration.

g. At the earliest available opportunity, the moving party shall fax the moving documents to opposing counsel or an unrepresented party if the moving party can, within reason, obtain a fax number for opposing counsel or the unrepresented party. The court disapproves of ex parte requests where the moving party hoards paperwork to avoid giving the opposing party an opportunity to respond.

#### 4. Exception to Ex Parte Notice

Issuance of certain ex parte orders may be obtained without compliance with

the foregoing requirements of notice and supporting declarations. The court will excuse compliance with the foregoing requirements under the following circumstances:

(a) Requests for ex parte orders directing the parties to mediation at Family Court Services.

(b) Requests for mutual ex parte orders restraining the parties from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, except in the usual course of business or for the necessities of life.

5. Exclusive Use of a Vehicle

An ex parte order granting exclusive use of a vehicle ordinarily will not be granted unless a declaration demonstrates a true emergency and specific facts to support the order, including a discussion of the relative hardships to the parties and a compelling need for the order. Whenever possible, any request for orders with respect to a vehicle should include the year, make and license number of the vehicle.

6. Stay Away Order

Parties requesting an order requiring the other party to stay away from their residence shall indicate whether the other party is residing there or has moved and when he or she moved.

7. Set Aside of Ex Parte Order

If a responding party requests an ex parte order be set aside prior to the date set for hearing, notice shall be given to the moving party. The court may order an earlier hearing date or modify the orders on a proper showing in lieu of setting aside the orders.

8. Emergency Nature of Request

The evidentiary declaration shall contain facts which demonstrate why the matter is appropriately heard as an ex parte matter, as opposed to being heard on the court's law and motion calendar (with or without an order shortening time).

B. Domestic Violence Orders

The court is aware of the temptation to use the expedited process of the Domestic Violence restraining order process to obtain orders which would normally be sought as a noticed ex parte order in a family law case. The Domestic Violence process allows orders to be obtained without the necessity of filing fees, advance notice as set forth above, or the payment for an ex parte hearing. THEREFORE, IT IS NECESSARY THAT ALL APPLICANTS COMPLY WITH THE FOLLOWING REQUIREMENTS IN THEIR APPLICATION FOR RESTRAINING ORDERS, IF APPLICABLE TO THEIR CASE. COPIES OF THE DOCUMENTS SUPPORTING THE INFORMATION REQUESTED ARE TO BE ATTACHED TO THE APPLICATION IF THEY ARE AVAILABLE. IF DOCUMENTS ARE CONTAINED IN EXISTING SAN LUIS OBISPO COUNTY COURT FILES, THEN ALL KNOWN FILE NUMBERS ARE TO BE PROVIDED TO THE COURT.

1. Declarations Required

a. If an Emergency Protective Order (EPO) has been issued there is an absolute duty to notify the court. If the party filing the request has a copy of the EPO, it should be attached to the application.

b. If there is, or has ever been, any incident of domestic violence or abuse involving either of the parties which resulted in: law enforcement involvement, pending criminal charges, any orders of restraint issued by any court, existence of any current probation or



parole conditions, or current restraining orders, there shall be full disclosure to the court.

c. Any person seeking custody of or visitation with a child shall include in their application all of the following information: which of the requirements of Family Code Sections 5323 or 6346 have been met to establish the fact of their parental relationship to the child(ren), the existence of any custody or visitation orders issued by any court, and the specific terms of those orders if no copy is referenced or attached.

d. If there is an existing family law file and the other party is represented by counsel: whether that attorney has been notified of the request for restraining orders, particularly if the request includes a change to existing custody or visitation orders or a request for a residence exclusion. If there has been no notice to the attorney, or the other party, why the application should be granted without notice.

2. The parties are to maintain the highest standards of good faith and accuracy in their declarations. Any attempt to use the Domestic Violence restraining order process in a manner outside of its intended scope is subject to sanctions. The efforts of any party to so misuse the process will also be considered by the court in making any orders after hearing on these issues. These may include, but are not limited to, orders for payment of additional attorney fees resulting from such misuse, orders providing custody to the aggrieved party, and residence exclusion orders in favor of the aggrieved party.

3. The court will either short set a matter for hearing, or issue short term orders pending an ex parte hearing, if it appears to the court to be appropriate based on the information contained in the application.

4. Domestic Violence applications under Family Code Section 6200 and following are to be heard on a separate calendar at a time designated by the court. If there is an

existing domestic file which addresses dissolution of marriage, nullity, legal separation, or establishment of paternity, counsel or parties filing a domestic violence application may request that the application be heard on the regular Family Law and Motion Calendar.

5. It is the policy of this court that all files pertaining to the same parties be consolidated, including any filing by the District Attorney's Family Support Office, absent good cause shown.

6. The issues covered in Code of Civil Procedure Sections 527.7, 527.8, and 528 will be heard as a civil harassment matter at a time and place designated by the court.

C. Order Shortening Time

1. As a general policy such orders are discouraged by the court. An order shortening time for service or extending the duration of ex parte orders (CCP Section 5277) will not be granted unless supported by a declaration demonstrating good cause.

2. If an order shortening time is requested, the supporting declaration shall state whether or not the responding party is represented by counsel, the name and address of the responding party's attorney and whether or not the party or his or her attorney has been contacted and has agreed to the date and time proposed for the hearing. If the responding party or his or her attorney has not been contacted or has not agreed to the proposed setting, the supporting declaration shall clearly demonstrate why the hearing should be set on the proposed date without the consent of the opposing party or counsel. Provision for immediate delivery of the pleadings to the opposing party or his or her counsel's office should be set forth in the order.

3. As a general rule, a declaration in support of an order shortening time for service must show emergency circumstances.

VI. ORDER TO SHOW CAUSE AND MOTION CALENDARING

A. Hearing Dates and Times

1. All matters (except matters set at the request of the San Luis Obispo County Child Support Services) are set on Monday, Tuesday and Wednesday at 9:00 a.m. It is a good idea for counsel or parties to call and confirm availability before calendaring a hearing at (805) 781-5706. Hearings will generally be held between 9:00 a.m. and 10:30 a.m. in the department where the matter is assigned. Once the calendar limits are reached, no matters may be added without the approval of the assigned judicial officer. San Luis Obispo Child Support Services matters are set on Thursday at 8:00 a.m. for conferencing with the Department of Child Support Services staff and the matters are calendared for hearing at 8:30 a.m. in Department 12. Parties who have completed the Child Support Calculations Worksheet (See Exhibit “G” to Appendix) will be given priority on the calendar.

(Amended Effective 12/1/02)

2. A responding party may set a counter motion for the same date only if space is available on the calendar, or if approved by the Family Law judicial officer. A clerk may determine if the matter appears to be reasonably related.

3. If only one of the attorneys or party believes the hearing, including a review of the paperwork, will take more than one (1) hour, the judicial officer will determine whether to hear or reset the matter. The party estimating one hour or longer duration must inform the opposing counsel or party well in advance of the hearing of the time estimate. Both sides are expected to cooperate reasonably in negotiating settlement of such a matter. Hearings may be set and continued over to the afternoon, or the Trial Readiness Calendar, by the judicial officer if it appears on the date the matter is called for hearing, that the matter will take more than one hour to complete, or the OSC calendar cannot accommodate the time request, and a department is not available for assignment at

that time.

B. Continuances

It is the policy of the court to encourage settlements, cooperation between the parties and full, informal disclosure of all pertinent information. To this end, the court will accept mutually agreed upon continuances, as requested by the parties.

1. Prior to or at the hearing date, the court is inclined to grant one (1) mutually agreed-upon continuance without a showing of good cause. Attorneys (only) may call the clerk's office and represent that all parties have agreed to a continuance. A written agreement for continuance should conform to Exhibit "I" in the Appendix hereto.

(Amended Effective 12/1/02)

2. All parties, or their attorneys, if represented, must agree in writing to the continuances. Any additional continuance, even though agreed to, may be granted by the Family Law judicial officer, upon a showing of good cause and on reasonable terms as may be determined by the court.

3. In the event there is no agreement regarding a continuance, the party requesting the continuance shall notify the court when the calendar is called. Good cause reasons for a continuance may include, but are not limited to: recent retention as counsel, a need to obtain counsel, calendar conflicts, and the like. The court encourages parties to act reasonably regarding continuances so as to avoid unnecessary conflicts.

4. Parties should be aware that any written agreement which is sent to the court for signature for a continuance date may be changed due to court calendaring conflicts. It is therefore a good idea to provide acceptable, agreed upon alternative dates.

5. Requests to continue or advance shall be set in the department in which

the underlying hearing has been calendared.

6. The parties shall notify the clerk of any calendar changes at their earliest opportunity. This will allow urgent matters to be added to the calendar as the need arises.

C. Unserved Orders to Show Cause

1. In the event that an Order to Show Cause (OSC) cannot be timely served, the new OSC labeled “AMENDED HEARING DATE” below the title of the pleading shall be submitted and the new hearing date obtained from the Clerk.

2. If the same orders are requested, the moving party shall comply with the California Rules of Court, and utilize such forms as are approved by the Judicial Counsel for re-issuance of an Order to Show Cause.

3. If different orders are requested, the moving party shall submit an original signed application and declaration.

4. All other procedural requirements shall be the same as required for obtaining the original OSC.

D. Matters Taken Off Calendar

1. After service of the moving papers, and prior to responsive pleadings filed by the responding party, no matter shall be taken off calendar without notice to the responding party or attorney. Following filing of responsive pleadings, no matter shall be taken off calendar without the agreement of both attorneys or both parties, if they have no attorney.

2. Parties shall notify the clerk immediately if any matter will not proceed to hearing.

3. It shall be the duty of the moving party to determine in advance of the

hearing if timely service has been effected.

E. Required Parenting Class Fees with First Order to Show Cause (OSC) Involving Custody

On filing the first Order to Show Cause or Motion *requesting orders concerning custody or visitation* in any proceeding under the Family Code, the moving party shall pay, in addition to any applicable filing fee, his or her fees necessary to attend the class provided by Family Court Services, known as “Children: the Challenge in Divorce”. The responding party shall pay his or her fees for the class upon the filing of his or her responsive declarations to the Order to Show Cause or Motion.

F. Mediation

There will be a trained volunteer attorney-mediator available for the Monday, Tuesday and Wednesday morning OSC calendars. The attorney-mediator will be available in the jury room between Department 3 and Department 4. Those matters assigned to Department 12 will be sent to mediate to that location for their mediation conference. Each family law matter may have only one (1) mediation conference for no more than two hours, depending upon the time available to the mediator. Additional mediation conferences may be assigned if approved by the judicial officer in charge of the case.

The mediator is a neutral party who will help the parties reach mutually acceptable resolution of their dispute. The mediator does not decide the dispute but is trained to help the parties communicate so that they can settle the dispute on terms they design themselves. Mediation is confidential.

If the mediation conference does not result in a settlement, the matter will be

returned to court for resolution. The court will be provided with a Family Law Mediator's Report, a copy of which is attached as Exhibit "H" in the Appendix hereto.

(Effective 12/1/02)

## VI. JUDGMENTS FOR DEFAULTS OR UNCONTESTED MATTERS

### AND JUDGMENTS AFTER TRIAL

#### A. General Policy

1. When an uncontested Family Law judgment is sought to be obtained by a written agreement of the parties after a response has been filed, or by actual default, the affidavit provisions of Family Code section 2336 may be used in lieu of a personal appearance by the moving party. Generally, uncontested and default family law judgments may be obtained by declaration. However, a hearing may be set at the request of a party or the court. Judgments of Nullity for a void or voidable marriage require a court hearing. A hearing may be set upon request of a party (See Exhibit "J" in the Appendix hereto) or by court order. These hearings are set on the Domestic Law and Motion Calendar on Monday, Tuesday or Wednesday at 9:00 a.m. At the conclusion of a trial, the court will direct one of the parties to prepare the Judgment. In the event no one is directed to prepare a Judgment, the Petitioner shall assume this responsibility.

(Amended Effective 12/1/02)

2. IN NO CASE WILL A JUDGMENT BE ENTERED UNLESS THERE HAS BEEN COMPLIANCE WITH FAMILY CODE SECTION 2100 REGARDING THE PARTIES' OBLIGATIONS FOR PREPARATION AND SERVICE OF PRELIMINARY AND FINAL DECLARATIONS OF DISCLOSURE. Default or uncontested matters involving a minor child or children will also require proof of attendance at the Parenting Class provided by Family Court Services, or a showing of good cause for an exception. Prior to the entry of judgment the court

reserves the right to receive reimbursement of fees previously waived.

B. Format of Judgment

1. Where a Judgment is obtained by default and there is no written stipulation waiving child support, there shall be a full compliance with Family Code Section 4063. Stipulations for child support must comply with Family Code Sections 4063 and 4065.

2. All orders concerning child custody, child visitation, child support, spousal support, family support, injunctive relief, as applicable shall be set forth on forms prescribed or provided by the Judicial Council, unless they are set forth in a written Marital Settlement Agreement attached to the Judgment, or showing of a good cause for an exception. Prior to the entry of Judgment, the court reserves the right to require reimbursement of fees previously waived.

3. The division of the community estate and confirmation of separate property, as applicable, may be set forth in the body of the Judgment or in an agreement attached to and incorporated in the Judgment by reference.

4. The relief sought in the Judgment must agree with the relief sought in the Petition, unless the parties otherwise agree in a Marital Settlement Agreement or Stipulated Judgment. Stay away, residence exclusion, restraint on personal conduct and property restraining orders will not be granted unless the Respondent is given notice that such relief will be sought, and the Petitioner establishes a factual basis at the time of hearing for granting such orders.

5. Restoration of Wife's former name shall be ordered only at the request of wife or with her consent.

6. Where there is a Marital Settlement Agreement, the signature of any defaulted party, as well as self-represented parties to Marital Settlement Agreements must be notarized.



7. Any Judgment which makes orders for any child born to the parties prior to the marriage, shall include a declaration that the child is a child of the parties to establish paternity for that child.

C. Application for Judgment Nunc Pro Tunc

Any application for a Judgment Nunc Pro Tunc shall be accompanied by oral testimony or a declaration in support thereof setting forth a sufficient showing of good cause.

D. Documents

The party appearing or requesting a Judgment must present the following documents to the Clerk:

1. Original and three copies of Judgment and all attachments;
2. Original and two copies of Notice of Entry of Judgment with stamped, pre-addressed envelopes for both parties containing a return address for the court;
3. Declaration for Default or Uncontested  
Dissolution (if no personal appearance is made);
4. Current Income and Expense Declarations if the requested relief involves issues of support and attorney's fees;
5. Request for Entry of Default, or Appearance, Stipulation and Waivers forms (where needed);
6. Declaration Regarding Service of Preliminary and Final Disclosure  
Declaration for both parties absent an appropriate waiver and order of the court;
7. Proof of completion by both parties of the Parenting Class, unless waived by the court; unless the same has been previously filed with the court;
8. The Domestic Judgment Worksheet (a copy is marked as Exhibit "K" in

the appendix hereto).

E. DUTIES OF THE CLERK

1. The clerk shall return copies of the Judgment to counsel or the paralegal service proffering the same for distribution and the Notice of Entry will be mailed to the parties.

2. If the Judgment is submitted by a self-represented party, the clerk shall mail copies of the Notice of Entry and the copies of the Judgment to the parties at their most recent addresses as indicated by the file.

VIII. PLEADINGS AND TIME LIMITATIONS

Counsel and parties are encouraged to facilitate facsimile service in accordance with California Rules of Court, rule 2008.

(Amended Effective 12/1/02)

If a hearing is continued, no additional reply or rebuttal declarations shall be served and filed without permission of the Court. Failure to comply with these deadlines without good cause, may result in the court ignoring the late filed papers, or continuing the matter and imposing costs, including a reasonable attorney's fee. Documents shall not be handed to a courtroom clerk for filing on the day of the hearing, except with permission of the court.

A. Statement of Purpose

Orders to show cause are major events in the lives of family law litigants, requiring a large expenditure of money, energy, anxiety, and often anger. Attorney fees frequently exceed \$2,000 per side per hearing, and sometimes are more than twice that. This rule provides for self ordering and provides a less expensive and swift mechanism for each side to obtain basic

financial information. Failure to obey this rule may be justification for the imposition of sanctions or orders to pay the reasonable attorney's fees occasioned by failure to comply and/or an automatic continuance of the hearing at the option of the other party.

A. Service of Documents

In addition to serving the documents on the other party as required by California Law and Rules of Court, any party requesting or opposing child support, spousal support, family support, or attorney's fees and costs, or seeking to modify an existing order, shall serve (which may be by facsimile), copies of the following documents in the possession of or under the control of the moving party, and be prepared to lodge proof of service with the courtroom clerk on the day of hearing:

1. Each moving party and responding party:
  - a. Copies of all wage or self-employment income received for last 150 days;
  - b. Copies of the last two individual federal income tax returns, including all schedules;
  - c. Copies of all statements of income and expense and profit and loss prepared in the ordinary course of business for the last twelve months;
  - d. Copies of all business, personal, or other financial institution statements for the last 12 months; and
  - e. Copies of all 1099's, W-2's and K-1's.
2. If the party is employed by a subchapter S corporation or a corporation wherein he or she is at least a 25% shareholder then the party shall additionally provide:
  - a. Copies of the last two most current corporate federal income tax

returns, including all schedules and attachments and

b. Copies of all corporate bank statements for the preceding 12 months.

c. Copies of the most recent Profit and Loss

and/or Balance Sheet statements for the corporation.

3. If the opposing party is not represented by an attorney, the moving party shall also serve a copy of this rule.

4. If the above documents are not available, the party shall prepare, serve and file a declaration of why they are not available, what efforts are being made to obtain them and when they are going to be available.

5. Cases may be continued for various reasons, either by stipulation or court order. When a hearing is rescheduled, each party must update all documents, including copies of the most recent payroll stubs as well as other documents served under this section.

C. Cases Initiated by District Attorney

On cases initiated by the District Attorney, upon the request of either the obligor or the obligee, compliance with this section for both of them shall be ordered, except where the custodial parent is receiving welfare benefits in which case compliance will be at the court's discretion.

D. Presence of Parties and Attorneys

1. Unrepresented parties and attorneys shall be present in court when the case is called for hearing, unless they have previously checked in with the court clerk.

2. If a responding party or attorney cannot personally appear, the responding party or his or her attorney shall immediately contact the moving party and every reasonable effort

shall be made to continue the hearing. In the absence of a negotiated continuance or settlement, the responding party nevertheless shall file proper and timely responsive pleadings and, if necessary, set forth by attached declaration the communication or attempted negotiations with the moving party and a request for a reasonable continuance.

E. Failure to Appear

1. Failure of the moving party or attorney to be present at the calendar call, or to have informed the clerk or bailiff of his or her presence, shall result in the matter being removed from the calendar and, if the responding party has appeared, attorney's fees and costs may be awarded to the appearing party.

2. In the event the responding party fails to appear, the court may continue the matter and award attorney's fees, or enter an order on the pleadings and, if appropriate, testimony of the moving party.

F. Tardiness

If for any reason the attorney or client is unable to be present at the time of the calendar call, the court and opposing party shall be notified at the earliest available time such tardiness becomes known by telephone of the reasons for, and the extent of, such delay.

G. Pre-Hearing Settlement Efforts

1. When the attorneys have informed the court staff that they are conducting settlement negotiations, neither the attorneys nor the parties need be present at the calendar call and the matter will remain on calendar until heard or otherwise disposed of, but they shall inform the clerk of their whereabouts and hearing time estimates.

2. If a case is settled after calendar call but before the hearing, one of the attorneys should inform the judge's clerk or bailiff of that fact, whereupon the stipulation will be

taken ahead of all contested matters by the family law judge. No party shall represent that a case is “settled” when there is “only” one issue remaining to be determined by the court. If the parties have reduced their agreement to writing, they may pass the agreement to the bailiff or the clerk. Once it has been signed and filed and they have signed for and received their copy, they are free to leave without waiting for the next calendar call.

3. When some of the issues being contested have been resolved, counsel shall advise the court of the revised estimate of time required for hearing.

H. Calling the Calendar

1. The settlement of matters resulting in stipulations is favored, and will take precedence over contested matters

2. The calendar for each session of Family Law Department shall be called promptly at the designated time. Counsel shall state their names, appearance, whether moving or responding, and an accurate time estimate for the entire hearing, including opening statements, testimony, argument, and a review of the pleadings.

3. The moving party’s attorney will be asked to state the issues.

4. Attorneys are expected to be thoroughly prepared to answer the questions of the court concerning the facts of the case, and cite applicable statutory and case law if an unusual or contested point of law is involved. No party shall be entitled to conduct discovery proceedings at the time of the order to show cause hearing. In the event depositions or other forms of discovery are appropriate to prepare for hearing, the matter shall be continued for a period of approximately 30 to 90 days. The court shall enter an appropriate temporary order subject to adjustment for any interim matters.

5. Matters with a total time estimate exceeding one hour may be reset on a

Trial Readiness Calendar, or another date certain determined by the assigned judicial officer. The court also reserves the right to reset matters with a time estimate of less than one hour to an afternoon calendar, trial readiness calendar, or another date determined by the assigned judicial officer, if necessary to accommodate a particular OSC calendar. If appropriate, the court shall enter an appropriate temporary order subject to adjustment for interim matters.

(Amended Effective 12/1/02)

I. Presentation of Evidence

1. Counsel, or a party, shall be prepared to present their case based upon pleadings, declarations, and offers of proof. Counsel, or a party, shall be prepared to explain why any testimony is necessary, and must have previously filed a California Rules of Court 323 notice.

2. Sensitive or confidential documents shall be received by the clerk and not filed without court order. When appropriate, the court may order such documents to be sealed by the clerk and maintained in the file not open to public inspection without prior court order.

3. Counsel shall offer to permit pre-hearing examination of all exhibits which are to be offered to the court at the hearing except that reserved for impeachment. Such offer shall be made as early as possible prior to the matter being called for hearing. If all parties and/or their counsel agree, any documents subpoenaed for a hearing and produced directly to the court may be reviewed prior to the date scheduled for a hearing, at a date and time arranged by the clerk of the department where the matter has been assigned.

J. Attorney's Calendar

It is frequently required that matters be continued to another date at the time of the hearing in open court or at settlement conference. Attorneys must bring their calendars to court if they wish the court to take into consideration prior commitments. Optional dates should be

made available.

K. Witnesses

1. California Rule of Court 323 shall be complied with if testimony will be offered. For informational purposes only, a copy of Rule 323 is marked as Exhibit “L” in the Appendix hereto.

2. Whenever a witness has been subpoenaed to a law and motion hearing, every reasonable effort shall be made to stipulate to the testimony of the witness, and thereafter excuse the witness from further attendance. Third party witnesses shall be afforded priority.

3. The unnecessary retention of third party witnesses in court is not favored, and such retention may be considered by the court in awarding fees and costs.

L. Time Estimates Exceeded

If the time estimate of either party is exceeded, the court may, in its discretion, rule without further hearing; defer the matter to the end of the calendar if time permits; make interim orders, continue the matter to the next available date, or order the matter off calendar.

IX. SETTING TRIALS AND HEARINGS

A. Settings

1. In order to set a trial, it is the policy of this court to have counsel file a Joint At-Issue Memorandum, which is attached to the Appendix hereto as Exhibit “M”. If the parties receiving the At-Issue Memorandum disagree with the statements made in the documents, they shall sign the document and state their objections either on the document itself or on an attachment. If their disagreement is with respect to a time estimate, the clerk shall set the matter as a short or long cause matter based upon the longest time estimate given. If the disagreement is about other issues, the court will address these issues at the Trial Setting Conference for long cause matters, or at a



specifically set hearing by a noticed motion for a short cause matter.

2. If any party refuses or fails to sign the Joint At-Issue Memorandum, after having been given a reasonable amount of time, not to exceed fifteen (15) days within which to do so, the initiating party may file the unsigned Joint At-Issue Memorandum with the court. An appropriate form for submission to the court with the unsigned Joint At-Issue Memorandum is marked as Exhibit “N” in the Appendix hereto. In no case will a trial be set unless there has been compliance with Family Code Section 2100 et seq.

3. Parties and counsel must estimate the time of trial in numbers of hours in order for the court to make assignments efficiently and properly. The court considers five hours of court time to be a full court day. Trials require the presentation of oral and documentary evidence. Evidence in motions or order to show cause proceedings are submitted on the pleadings, unless the judicial officer requests testimony, or with the permission of the court after a party files and serves Notice of Intention to Present Oral Testimony pursuant to Rules of Court, Rule 323(a).

4. In order to set a trial, both parties must have filed proof of service of preliminary disclosure pursuant to Family Code Sections 2103 and 2104, and proof of service of final disclosure or waivers pursuant to Family Code Section 2105 and 2106.

5. If there are minor children, the parties must have attended the parenting class (Children: The Challenge in Divorce) which is presented by Family Court Services and the Certificate of Attendance must be in the court file, absent a court order granting a waiver of such class.

6. If a request is made to set a bifurcated matter for trial, the parties or counsel may do so by filing and serving an appropriately noticed motion on the Judicial Council form attached in the appendix and marked as Exhibit “P”, and/or by mutual consent of the parties with the

court's approval. If a bifurcated trial has already been completed on a matter entitled to statutory priority, e.g. child custody and visitation, the remaining issues may be set for trial by providing the opposing party or counsel with appropriate notice for a chambers conference, or by filing a noticed motion as to that request, or by filing and checking the appropriate box on the Joint At-Issue Memorandum marked as Exhibit "M" in the appendix hereto.

B. Status Conference

1. A family law status conference will be calendared by the clerk's office for appearance before the assigned judicial officer in every case. The status conference will generally be set approximately six (6) months from the date the action is initially filed. At least ten (10) calendar days before the scheduled status conference, each party must file with the court and serve on all other parties a Status Conference Statement. A copy of this statement is marked as Exhibit "E" in the Appendix hereto.

2. The status conference must be attended by the parties or their attorneys. Arrangements can be made to appear by CourtCall. At the status conference, the presiding judicial officer may take action and make orders which include, but are not limited to, the following.

- a. Refer the matter for mediation or a settlement conference.
- b. Refer the issues of valuation and division of personal property, household furniture and furnishings to judicial arbitration.
- c. Issue orders for the appointment of an attorney for a minor child or children.
- d. Issue orders for an evaluation pursuant to Family Code section 3111 or by a psychologist under Evidence Code section 730.

- e. Issue orders for appointment of an expert.
- f. Arrange for the bifurcation of certain issues, if appropriate.
- g. Implement a schedule for discovery matters and compliance.
- h. Set the matter for trial.
- i. Reschedule the matter for another status conference.

(Effective 12/01/02)

C.        Mediation

Each month there will be a mediation conference available to the cases set for trial on the following month. For example, a matter set in February will have the opportunity to have a mediation conference in January. A court volunteer will contact the parties or their attorneys to inquire if a mediation is requested. A “Confidential Mediation Brief” must be presented to the mediator at the conference. The brief may not be filed with the court and will be returned to the parties at the conclusion of the conference. The brief should set forth the issues to be mediated and the parties and counsel must be present. Information should be available for the conference as necessary, e.g., income and expense verification. The brief should state the primary concerns of each party. At the conclusion of the mediation, the mediator will submit a Family Law Mediator’s Report (see Exhibit “H” in the Appendix hereto) and to the court. Mediation is confidential.

(Effective 12/01/02)

D.        Trial Readiness Conference

The Trial Readiness Conference (TRC) must be attended by the parties or their attorneys. The trial readiness matters are set on different days in different judicial departments. Parties and counsel are encouraged to refer to the Family Law Direct Calendar attached as Exhibit “A” in the Appendix hereto or contact the clerk’s office for further information. The trial of these

matters will generally be heard the following week. This process enables the court to efficiently allocate judicial time and to address the attorneys' availability and, to the extent possible, the parties' requirements. At the TRC the court will make every effort to set the time, date and courtroom or "department" for the parties to appear. If the court cannot define a date certain at the time of the TRC, the parties must be prepared to give the clerk a telephone number where they can be reached to appear for trial on four (4) hours' notice. The court may, in its discretion, allow longer notice. If both parties are prepared to proceed to trial at the TRC and, if there is a courtroom available, the matter may proceed to trial immediately.

(Revised 12/1/02)

F. Trial Preparation

1. Any party who is proceeding to trial or hearing without an attorney is advised and forewarned that they will be responsible for competently presenting or objecting to evidence and be knowledgeable of applicable law.

2. The parties or their attorneys should be present when a matter is called for trial, and failure to be present without notice to the other party or without notice and approval of the court may be deemed sufficient cause for placing the matter off calendar, or proceeding to hear the matter in the absence of one of the parties.

3. If the case has been settled prior to the date of trial or hearing, the clerk's office should be promptly notified, either in writing or by telephone, that the matter has been settled, so that it can be taken off calendar. If both parties so notify the clerk, it is not necessary to appear for the hearing. If the parties appear at trial, the court should be notified at the earliest time that the matter is settled, so that it can be taken off calendar, or heard as an uncontested matter.

4. If the hearing or trial is not completed within the time estimate, the court

has discretion to determine that the matter is a mistrial and reset it for another date to be heard from the beginning.

5. It is appropriate to have a trial brief presented prior to the commencement of the trial. The requirements of SLO Court Rule 27.02 shall be observed in family law cases.

6. If an interpreter is needed, the clerk's office should be notified as soon as possible, but not later than a week before the trial date. The party calling a witness for whom an interpreter is required shall avoid using a relative or friend as an interpreter in a contested proceeding. Except for "good cause", a person who interprets in a court proceeding shall be a certified court interpreter. In accordance with applicable law, the presiding judge or his/her designate may determine that a non-certified interpreter is provisionally qualified. Counsel or parties requiring the use of an interpreter should contact the Clerk's Office to determine the schedule of certified interpreters available to the court.

7. Before trial, counsel shall meet and prepare the Fredman Form which is a joint property statement to be presented to the court as an exhibit setting out each party's contentions as to the character, value and possession in the format as set forth in Exhibit "O" in the appendix hereto. Commencing on the first page, counsel shall set out all real property, followed by all items of personal property of substantial value, other than furniture, furnishings and personal effects. Thereafter, counsel shall set out in separated categories financial matters and intangible property, such as pensions, retirement accounts, bank accounts, and stock portfolios, any claims for Epstein credits or Watts charges, the balance due on debts as of the date of trial, and any other items which they expect the court to value and distribute. Finally, counsel shall set forth the furniture, furnishings, and personal effects on a separate set of pages to be attached to the end of the Exhibit. These matters are generally referred to arbitration pursuant to Family Code Section 2554.

(Revised 12/1/02)

G. Conference with Trial Judge

1. At the request of counsel, prior to the commencement of trial, the court may hold a brief in-chambers conference to resolve questions concerning the order of proof, motions in limine, or other matters having to do with the mechanics of the trial.

2. Where counsel, by agreement, conduct settlement conference discussions with the trial judge, they waive their right to assert any disqualification of the judge. However, the trial judge may believe his or her disqualification is required by law and disqualify himself or herself.

3. Chambers conferences on law and motion calendars are limited and disfavored.

4. Chambers conferences with minor children are disfavored and are to be set only upon court permission.

H. Trial - Documentary Evidence

1. Documentary evidence should be offered by stipulation to avoid the need for foundational witnesses.

2. Copies of documentary evidence, except for those items reserved for impeachment purposes, shall be exchanged by counsel and marked by the clerk prior to the commencement of trial. Exhibits offered by the Petitioner shall be identified by numbers consecutively beginning with the figure 1 and proceeding through 99, if necessary. Exhibits offered by the Respondent shall be identified by numbers sequentially beginning with the figure 100 and proceeding through 199, if necessary. The court's exhibits such as the Fredman Form, Income and Expense Declarations, and exhibits offered by other parties shall be identified by consecutive

numbers preceded by the letter C (e.g., C-1, C-2, etc.).

3. Commonly accepted rules of courtroom etiquette shall be observed by counsel and litigants.

4. Counsel offering an objection shall state the specific legal grounds for the objection. Leave to argue in opposition or support may be authorized by the court upon request.

5. Petitioner's counsel should be seated at the side of the counsel table which is closer to the jury box.

6. Requests for attorney's fees shall be made in the form of an affidavit by the requesting attorney setting forth the detail of the work, time and charges. This affidavit should be presented to the court and a copy served on opposing counsel. Merely copying attorney's time records and billing statements is not an appropriate way to prove attorney's fees and costs. Generally, with the court's permission, the request for fees is submitted by declaration following the trial.

I. Personal Property - Arbitration

1. Personal property as set forth on the Fredman Form (see Exhibit "O") is not generally heard by the trial judge. If these matters cannot be settled, the parties must proceed to arbitration. Arbitration may be ordered at the earliest opportunity. After the parties are assigned an arbitrator, they shall each pay the arbitrator \$125.00 for two hours of arbitration at least two days prior to the commencement of arbitration. If the arbitration must be continued because more time is required each party shall pay one-half of the retainer requested by the arbitrator. The arbitrator may bill against that retainer at his or her regular hourly rate. At the conclusion of the arbitration and preparation of the written award, if there are any funds remaining, the arbitrator shall return the funds to the parties in equal amounts.

2. No arbitration may proceed without completed Fredman Forms by each party.

3. The arbitrator is not available to assist the parties with legal advice, to issue subpoenas, to call witnesses or to require compliance with the court rules. Fee waivers do not apply to arbitrators.

4. The arbitrator has the discretion to refuse to complete the arbitration because of the parties' uncooperative behavior or unruliness. If that does occur, the arbitrator shall notify the court in writing.

5. If the parties do not set and lodge a retainer with the arbitrator as set forth in paragraph 1 above, within thirty (30) days of the arbitrator's request, the matter will be referred back to the court for disposition.

#### X PREPARATION OF ORDERS

A. The court shall designate an attorney or party to prepare an order after presentation of a stipulation or after orders are issued following a hearing or trial. The order then shall accurately state the stipulation or orders of the court, using the official forms with necessary attachments in every case where a form has been approved for use by the Judicial Council. Unless otherwise ordered by the court, the proposed order shall be sent to the other attorney or, if the other party is self-represented, to the other party. The other attorney or self-represented party shall promptly approve the order or refuse to approve the order stating the alternate proposed language. If the other party/attorney does not respond promptly, the party preparing the order may submit the order to the court, accompanied by a letter, with copy to the opposing party, stating that the order was mailed to the opposing party to sign on a certain date, the circumstances surrounding the failure to sign, and requesting the court to sign the order without the other party's approval.



B. If the preparing party fails to prepare and mail the order as required, then the responding party may prepare a proposed order and mail it directly to the clerk without seeking the approval of opposing counsel, along with a letter to the hearing judge, with a copy to the opposing party, setting forth the applicable dates according to this rule, and requesting the judge to sign it.

C. If there is a disagreement between the parties concerning the accuracy of the prepared order, then either party may request the court to enter an order and refer the court to applicable portions of the hearing transcript. If appropriate, counsel may also request a chambers conference with the judicial officer rendering the decision to resolve conflicts over proposed orders.

D. Attorney's fees and costs, including the costs of preparing the reporter's transcript, may be awarded depending upon the merits.

E. In the case of stipulated orders, the signature of self-represented parties shall be notarized, unless the stipulation is signed or acknowledged before authorized court personnel.

F. Upon obtaining a filed endorsed copy of the order, a copy shall be provided to all attorneys or if self-represented, to the party.



### SECTION THREE

#### SUGGESTED APPROACHES TO SUBSTANTIVE FAMILY LAW ISSUES

##### I PROPERTY DIVISION ISSUES

##### A. RETIREMENT PLAN ISSUES

The court may choose from four major alternative methods to divide the community property interest in a pension plan. These methods include (1) a reservation of jurisdiction upon stipulation of the parties, (2) a cash-out, (3) a division in kind (for example, trading the equity within a residence for the pension), (4) a division pursuant to the time rule, with a reservation of jurisdiction to enforce the payments. Counsel or the parties should be prepared to present evidence and arguments to support the preferred method of division. The court will consider such factors as the age of the parties, the duration and amount of contributions into a pension plan, the duration of the marriage, whether the retirement benefits include both a defined contribution plan as well as a defined benefit plan, and the relative hardship upon the respective parties. The law relating to the division of retirement plan benefits is complex and changing. The court encourages the parties to obtain legal advice in determining the value and division of these type of community assets.

##### 1. Defined Contribution Plan

This type of plan is essentially a fund for retirement which is being held by the employer, the union, or other financial institution for a party. The most common types of defined contribution plans are IRA accounts and 401k plans. The value of these plans is easily determined by obtaining a statement for the value of the property held in the fund at the time of separation, and at the time of trial. Generally, the community portion within a defined contribution plan can be divided and transferred into separate accounts in the name of the

parties. However, unless transfers are made into a tax deferred account adverse tax consequences can arise. There is no need to determine an actuarial value for a defined contribution plan.

Notwithstanding the fact that the court can generally make an immediate and final division of this type of retirement plan, many employers requires that such a division be based upon a judgment or court order. A Qualified Domestic Relations Order (QDRO) is oftentimes required to divide the community interest in a private defined contribution plan. A delay in preparing and obtaining a QDRO can create a significant risk with respect to benefits otherwise payable under the plan and may even result in a complete loss of all benefits.

A defined contribution plan which does not, permit immediate division will either be awarded to the employed spouse or divided pursuant to the "time rule" as set forth below.

## 2. Defined Benefit Retirement Plan

This type of plan is one which will pay a specific benefit to a party, for life, based upon a formula contained in the plan. Additional benefits such as "survivor's rights" for a spouse may also exist under certain plans. The court will divide all of the community benefits provided for by the defined benefit plan. In order to determine the current value of a defined benefit retirement plan, an actuarial valuation of this asset must be undertaken by an expert. Whenever possible, counsel and the parties should stipulate to the introduction of appraisals undertaken by experts to establish the actuarial value of a defined benefit plan.

As soon as possible, the plan should be joined as a party to the domestic action. Judicial Council forms are available to facilitate this joinder. See Exhibit "Q" in the Appendix hereto. At a minimum, counsel or the parties should provide the plan administrator or trustee with written notice of an adverse claim pursuant to Family Code § 755(b).

The community interest in public pension plans such as PERS and STRS cannot be divided by the issuance of a Qualified Domestic Relations Order. However, if the plan is properly joined, they can provide several options, for example the establishment of a segregated account for the non-member spouse. The parties should obtain competent legal advice in order to evaluate and understand the potential benefit or detriment by requesting the court to establish a segregated account for the non-employee spouse.

3. Presentation of QDROs for Signature by the Court

When a QDRO (or QDRO-like order which relates to a governmental retirement plan) is presented to the court for signature, the court will require that the QDRO have been approved, in advance, by both marital parties and the plan (if both have appeared in the action) unless:

a. The QDRO (or QDRO-like order) is accompanied by a declaration based upon which the court finds that good cause exists for the filing of the order without approval by the Plan or other marital party; or,

b. The presented document is a “temporary “QDRO (or QDRO-like order) designed to protect the rights of the non-employee spouse pending the approval and filing of a permanent QDRO.

The signature of the plan administrator may either precede or follow the court’s signature as required by the plan.

B. EPSTEIN CREDITS/WATTS CHARGES

1. Basic Policy Regarding Epstein Credits and Watts Charges

a. The granting of Epstein (In re Marriage of Epstein (1979) 24 C3d 76, 154 CR 413) credits and assessment of Watts (In re Marriage of Watts (1985) 171 CA3d 366,

217 CR 301) charges is not mandatory and remains within the discretion of the court. In exercising its discretion, the court will consider among other factors the following:

- (1) The nature of the debt,
- (2) The source of payment,
- (3) Which party has use of the asset,
- (4) The fair rental or use value of the asset,
- (5) Whether support is being paid informally or pursuant to court order.

2. Epstein Credits

a. It is the policy of the court to encourage litigants to pay their bills in a timely manner by giving them appropriate Epstein credits for payments made after separation on community debts from separate property sources. In doing so, the court hopes to promote a policy which will preserve the credit of both parties and avoid the additional hardship created by a potential bankruptcy action.

b. Issues relating to Epstein credits should be raised, discussed, accurately identified and resolved at the earliest possible time in the litigation process. Counsel or parties who permit Epstein credit issues to go unresolved until the time of trial, create an additional complex issue for settlement and trial, expose his/her client to an unpredictable adverse trial decision, and expose the client to concomitant increases in attorney's fees and other litigation costs.

c. The court will generally refrain from ordering either party to remit payment on specific community obligations following separation. Absent a written stipulation signed by the parties, or an oral stipulation recited in open court, the court generally will not permit payments on community obligations to be deducted from court ordered support payments. Counsel

or the parties should be prepared to present persuasive arguments to the court for an unusual or exceptional case, requiring an order for the pendente lite payment of community obligations.

d. At the earliest opportunity, the parties should make available to each other copies of all credit card statements or other documents evidencing the balance owing on community obligations at the time of separation. These documents should be attached and served with the Preliminary Declaration of Disclosure. In cases where informal support has been paid following separation, the court will expect the parties to exchange and provide credit card statements and other documents reflecting the balance owing on community obligations as near as practicable to the time of the issuance of a formal support order.

e. A party claiming Epstein credits has the burden of proof regarding the community nature of the obligation, the balance owing on the date of separation, the post-separation payment, and the separate property source of the payment.

f. In the absence of a stipulation as to the amount of the Epstein credit to be awarded, the court will expect the party claiming Epstein credits to provide documentary evidence to support the award. The documentary evidence should include a copy of the community obligation (such as credit card statement, credit line statement, insurance bill, etc.) followed by canceled checks reflecting each post-separation payment. If canceled checks are unavailable, a bank statement or other document should be produced together with a check register confirming the amount of the payment.

g. Oral testimony by a party offering only an opinion as to the balance owing on community obligations at the time of separation is disfavored. Parties should make every effort to submit documents in support of their request.

h. Exhibits supporting an award of Epstein credits shall be served on

the opposing party at least five (5) calendar days prior to the matter being called on the Trial Readiness Conference Calendar. Counsel and the parties are encouraged to meet, confer, and reach a stipulation as to these issues. For example, the parties may be able to agree to the amount of post-separation payments without acknowledging a credit.

3. Watts Charges

a. A claim for a Watts (In Re Marriage of Watts (1985) 171 CA3d 366, 217 CR 301) charge against a party for the post-separation use of a community asset generally arises with regard to the exclusive use of a family residence. Evidence as to the fair use value of a community asset can be provided by expert testimony or testimony from the parties. If expert testimony is utilized a copy of the expert's written opinion or analysis should be provided to the opposing party prior to the commencement of trial. Claims for Watts charges for the exclusive use of a community vehicle are generally disfavored by the court.

b. Counsel and the parties are encouraged to address the issue of Watts charges early in the litigation. The court encourages counsel and the parties to provide prior written notice to the other party of an intention to seek a Watts charge. The court's decision as to this issue may be affected by the date of entry of a formal support order, the amount of informal support paid, or the date of notice to claim a Watts charge.

C. TRACING AND OTHER ACCOUNTING BASED CLAIMS

1. The resolution of issues relating to the tracing of separate property into community property, or community property into separate property, or accounting for income and expenditures following separation, often requires the presentation and review of multiple documents. For purposes of clarity and judicial economy, the parties and counsel are encouraged to present this evidence by way of expert testimony or stipulation, whenever possible.



2. Supporting schedules and documents should be exchanged in advance of trial, no later than the Trial Readiness Conference. Specific portions may be highlighted for reference. When possible, counsel and the parties are encouraged to reduce the time otherwise required for lengthy testimony by stipulating to specific facts.

3. When separate and community assets have been co-mingled, there are two available methods of tracing, namely (1) direct tracing or (2) family expense tracing. The party seeking to establish a separate property interest in a community asset, or a community interest in a separate asset, has the burden of proof regarding tracing. The preferable method of providing this evidence is through direct tracing. A party relying on the family expense method of tracing must be prepared to provide persuasive evidence to the court regarding the amount of community funds available and the amount of community living expenses incurred during the period of time when the claim for reimbursement arises.

D. LOANS FROM FAMILY AND FRIENDS

The party alleging the existence of an unsecured loan to the community from family members or friends, shall bear the burden of producing evidence which proves the existence of the loan. Relevant evidence might include such things as the following:

1. Documentation for the loan.
2. Evidence of payments on the loan.
3. Proof of when the debt is due.
4. Any other relevant evidence.

If appropriate, joinder of the lenders is encouraged so that the issue can be dealt with in a single forum. In the absence of joinder, lenders are not bound by a judgment issued by the family court.

E. GIFTS

In determining whether an item of personal property given to one of the parties by the other party, family members, or others, is a gift, and thus the separate property of a party, the court will generally consider the following factors:

1. Whether the gift item is personal in nature (the more personal, the more likely it was intended as a gift).
2. The purpose or occasion in which the gift was given.
3. Whether the gift was used in the normal course of living by the donee of the gift.
4. The intent of the donor of the gift (this factor can be determinative).
5. The source of the funds used to acquire the gift.
6. The manner in which title was taken to the item.
7. Corroboration of donating intent of the donor.

F. BUSINESS VALUATIONS

1. The community property interest in a business is subject to valuation and division by the court. The characterization, valuation and division of a business is a challenging and changing area of the law. Issues can be extremely complex and the assistance of an experienced attorney and an accountant is ordinarily required. Different principles may apply in characterizing the business depending upon the nature of the business and the efforts or investments made by a spouse before marriage or from separate property sources. It is not uncommon that a business will be partly the separate property of one of the spouses or partly the community property of the marriage.

2. Ordinarily, a business will be valued as of the date of separation. However, subsequent conduct of the parties or the effect of services rendered by a spouse after the date of

separation, may persuade the court to use a different valuation date. Notice of intent to use a date of valuation other than the separation date should be given to the other party in a timely manner.

3. The value of a business depends on many factors, and the valuation approach varies with the type of business. Components of value may be intangible, such as goodwill, as well as tangible and the assistance of accountants and appraisers is often necessary. Dividing a going business when both of the spouses have been actively involved in it raises special problems. Each case must be approached as a unique matter.

G. ACCRUED VACATION AND SICK PAY

Vested holiday, vacation, or sick leave that has been earned during marriage, and which the employee spouse is entitled to be paid for by the employer upon termination of employment, is a community asset subject to division by the court. Ordinarily, the court will award this employment benefit to the employee spouse and value it by multiplying the amount of time as of the date of separation by the rate of pay in effect at the time of trial.

H. MOTOR VEHICLES

There are Kelly Blue Book or equivalent publications relating the value of cars, trucks, motorcycles, boats, airplanes and recreational vehicles. The court favors using the mid-point values assigned by such publications (after considering adjustment for mileage and accessories) as a simple way to resolve these valuation issues. A party who does not wish to use Blue Book or comparable values should generally be prepared to present an appraisal of the disputed asset at the time the matter is assigned for trial. Kelly Blue Book or equivalent publications are available for examination at the county law library.

I. DIVISION OF HOUSEHOLD FURNITURE AND FURNISHINGS

1. Pursuant to Family Code § 1100, both spouses have a fiduciary duty with respect

to each other in the management and control of community assets and liabilities, including personal property. This duty remains in effect until such time as the assets and liabilities have been divided by agreement of the parties or by a court. A breach of this fiduciary duty may result in financial penalties against a party.

2. The court encourages the parties and counsel to reach an agreement as soon as possible with respect to the valuation and division of items of household furniture and furnishings. Failure to do so, often results in the parties incurring considerable legal expenses through arbitration or subsequent litigation.

3. Items of household furniture, furnishings and personal property are generally referred to arbitration pursuant to Family Code § 2054. Counsel should so advise their clients. At the earliest opportunity, the court may bifurcate out personal property issues and refer them to mediation or arbitration.

4. Prior to arbitration, each of the parties shall prepare a list which contains a separate listing of each and every item of personal property that a party wishes to have valued. They shall use the form exemplified in Exhibit “O”, or in lieu thereof, each party may use a computer generated form which generally incorporates the same information. The personal property items shall be listed on a page or pages of the Fredman Form which are separate from other items of assets and liabilities. Each party shall have the right to list any item, whether the item is in the possession of that party or the opposing party.

## II SUPPORT

### A. CHILD SUPPORT

#### 1. Computer Program

The court will utilize the Dissomaster computer pro-

gram for calculating child support (or a similar computer program) that calculates support pursuant to the statewide guideline for the Uniform Determination of Child Support established by the California Legislature.

2. Timeshare

Timeshare is the amount of time the child spends with each parent. Except in unusual circumstances, custodial timeshare shall be calculated as follows:

a. Long Weekend: Friday evening to Monday morning shall be calculated as a 2½ days; however, if the weekend includes an adjoining Monday holiday, the weekend shall be calculated as three (3) days.

b. Short Weekend: Friday evening to Sunday evening shall be calculated as two (2) days.

c. One Evening Per Week: Generally a four (4) hour time period, calculated at one quarter (1/4) day.

d. One Night Per Week: Generally, from after school to the following morning, calculated as one-half (½) day.

e. Child Care: Periods during which one parent is providing child care under a right of first refusal will not be considered in calculating time share.

For holidays, in the absence of evidence showing that the time share is significantly different, the court will utilize the following as default calculations:

f. Summer Vacation: Summer vacation shall be the actual number of days or weeks awarded. The number of days or weeks designated as summer vacation shall be excluded when determining the remaining timeshare. For example, if four weeks of summer vacation are awarded, then the balance of visitation shall be calculated on a 48-week basis.

g. Thanksgiving Vacation: From Wednesday after school to Sunday evening, shall be calculated as four (4) days.

h. Christmas Vacation:

(1) The first half of Christmas vacation, including Christmas day, shall be calculated as nine (9) days.

(2) The second half of Christmas vacation, including New Year's Day, shall be calculated at nine (9) days.

i. Spring Vacation: Nine (9) days for a week long Spring vacation and sixteen (16) days for a two week long Spring vacation. Custody on Easter day only shall be calculated as one (1) day.

j. Mother's/Father's Day: The court will not consider Father's Day, Mother's Day, the child's birthday or a parent's birthday as a visitation day in calculating time with the noncustodial parent.

If the parties stipulate that visitation is to be reasonable, there will be a presumption that the noncustodial parent will have physical custody twenty per cent (20%) of the time unless the parties present contrary evidence.

The court will determine approximate timeshare for each child by conventional rounding up or down in five per cent (5%) increments. In cases in which parents have different children, the court will average the rounded timeshares for all of the children, in which case the resulting blended timeshare may not be in five percent (5%) increments.

### 3. Hardship Claims

Hardship Claims are discretionary with the court and must be proven by the party requesting such a claim. Only those hardship claims as described in Family Law Code Sections

4070 - 4073 (generally, (a) extraordinary health care expenses, (b) uninsured catastrophic losses, and (c) minimum basic living expenses of parent's other children residing with such parent) and in published appellate cases will be considered by the court.

4. Expenses for Adult Children/Stepchildren

a. If a parent provides support for an adult child (such as an adult college student), those expenses will not be taken into account in calculating child support. However, legally required support for an adult developmentally disabled child or legally required support for a parent may be considered by the court

b. Expenses for stepchildren are not considered hard-ship expenses and will not be considered by the court in setting child support.

5. Determining Income

a. General: In setting income for child support calculation purposes, the court will try to set a level of income that will be in effect during the term of the proposed child support order. The extent to which current income, or income in the immediate past, bears on an estimate of support in the future varies greatly from case to case. The court may award support based in part on bonuses, commissions, overtime, and other supplemental or non-wage income when the court determines that this is reasonable. A claim by a party that an employer has reduced or otherwise modified bonuses, commissions, overtime, and other supplemental income is best verified by evidence in addition to the employee's testimony.

b. Earning Capacity: If a party is not earning to his or her reasonable earning capacity, the court may impute income to that party by calculating support as though that party were earning at a higher level. This is known as an "earning capacity" order. Generally, the court will only consider this type of order if there is proof of: (a) the opportunity to earn at the higher level

(available higher paying jobs), (b) ability (the party has the ability to perform the higher paying job), (c) and unwillingness (the party is unwilling to take the higher paying job that is available and that he/she has the ability to perform). Proof that a party once earned more than he or she now earns is some evidence relevant to (b) above, but is often not enough proof of “earning capacity.”

c. Seek Work Orders: If it appears to the court that a party could work but is not looking for work or making serious, diligent efforts to find work the Court will enter an order against the person requiring a certain level of activity in a job search and which will require that the person keep a log of their activities and that the person report those activities to the court (and opposing party) as directed by the court. This is called a “seek work order”. A seek work order requires that the party ordered to seek work provide proof of these efforts to counsel or the child support enforcement agency. The court will provide a form for the “seek work order” as well as a log in which the work-seeking activities can be recorded. Failure to comply with a seek work order will permit the court to impute income to the party and to make an “earning capacity” order (see preceding paragraph), and may result in criminal prosecution, or the filing of a contempt action.

#### 6. Bonus and Overtime Income

When a party receives bonuses or overtime, the court may order that a percentage of such bonus or overtime received be paid to the other parent as additional child support.

#### 7. Expenses for Visitation

Generally, the responsibility for transportation will be shared equally by the parties. In most cases, this will be accomplished by the following:

a. Requiring the parents to meet at a half-way point to exchange the children for visitation; or



- b. Requiring the receiving parent to be responsible for that transportation.

The “receiving parent” is the parent who is to pick up the child, either at the beginning of or the end of the visit. This means that the parent who is to have the children for a visit is the receiving parent at the beginning of the visit and the parent who wants the child to be returned to him/her at the end of the visit is the receiving parent at that time. The court can, in appropriate cases, determine responsibility for transportation in accordance with applicable case law.

#### 8      Health Care/Uninsured Costs

- a. If either party’s employer provides health care insurance at no cost or at reasonable cost, that party or parties will be ordered to maintain the children as beneficiaries under said policy. If requiring both parties to carry health insurance coverage increases costs without a reasonable increase in benefits, the court may permit the parties to agree to an arrangement which will avoid duplicative health insurance coverage.

- b. Uninsured health care costs, including but not limited to medical, dental, orthodontia, pharmaceutical counseling and vision care costs, will normally be ordered shared equally between the parties or prorated in the statutorily defined manner between them.

- c. Generally, the court will order that the parties act in a manner that will minimize the amount of uninsured health care costs and that the parties will meet and confer concerning non-emergency, non-routine health care matters.

- d. If there is insurance available and one of the parties fails to use it in a non-emergency situation without first obtaining the agreement of the other party, the other party will only have to pay one-half (½) the amount which would not have been covered by the insurance.

- e. In appropriate cases, the court will order the parties to cooperate in

applying for the Healthy Families Program (which provides low cost insurance for children).

B. SPOUSAL SUPPORT

1. Temporary Spousal Support

The court has adopted a temporary spousal support guide-line (the so-called Santa Clara guideline) which will be used in the vast majority of cases in which the court sets temporary spousal support. The court anticipates in the absence of a showing of a substantial change of circumstances, the temporary order will continue until the time of trial except in the case of short term marriages (two years or less) where the court will likely consider the length of the parties' marriage in determining the duration of the temporary spousal support order. In short term marriages, the court may set a date for terminating temporary support, if applicable.

2. Permanent Spousal Support

a. The temporary spousal support guideline is not used by the court in making awards of permanent spousal support. Printouts from computer software programs (Dissomaster, Support-Tax, etc.) may be introduced into evidence only to assist the court in determining the immediate and specific tax consequences to each party in awarding support. Any computer software printout submitted as an exhibit should set out the parties' proposed support orders (user support) and should not submit a printout utilizing a guideline support order.

b. The court will consider all factors set out in Family Code Section 4320 in setting the amount and duration of permanent spousal support. The court's jurisdiction to award spousal support is governed by Family Code Sections 4335 - 4337 and existing case law. Depending on the circumstances of each case, the court may order ongoing, open-ended support, terminate support immediately, retain support jurisdiction indefinitely, fix the termination of spousal support jurisdiction to a non-modifiable date in the future (although such orders are generally disfavored), or

fix the termination of spousal support jurisdiction to a date in the future - unless the supported spouse files a motion prior to the termination date showing good cause to modify that termination date (Marriage of Richmond (1980) 105 Cal App 3d 352).

3. Modification of Permanent Spousal Support

If the court has retained jurisdiction, spousal support may be modified (as to duration and/or amount) only upon showing of a material change of circumstances since the entry of the last spousal support order.

D. FAMILY SUPPORT

1. Temporary Family Support

If a significant benefit (an increase in the parties' combined net income of 3% or more) will accrue to the parties through the making of a family support order due to the tax treatment of such an order), the court may order family support. The family support award normally will be fashioned to permit both parties to benefit from the increase in after tax income.

2. Permanent Family Support

A family support order, made at trial or after, may not be based on guideline spousal support. Any computer software printout submitted as an exhibit should set out proposed family support utilizing user determined, not guideline, spousal support.

3. Dependency Exemptions

In ordering child or family support, the court may transfer the dependency exemptions for the minor children. In modifying child or family support, the court may revisit the issue. The court may also order the custodial parent to sign IRS Form 8332 to effectuate the transfer of dependents, if the paying parent is current with support. (See Exhibit "R" in the Appendix)

III ATTORNEY'S FEES AND COSTS

A. BASIC POLICY

It is the law and the policy of the court that each party shall have equal access to the court and equal ability to engage in litigation. Where appropriate, this equality may be achieved through attorney fee orders and orders for expert witness(es) and other costs. When one party has greater knowledge and understanding of the nature and value of community property and family and financial matters, the less knowledgeable party may, in fact, need greater funds to litigate equally than the other, more knowledgeable, party.

B. PRE-TRIAL ATTORNEY'S FEES

1. The court generally expects that attorney's fees will be paid out of ongoing income sources or from the borrowing ability of the person earning greater income. Sources may include credit cards, loans from relatives, or on rare occasions, the use of separate or community funds or stock, etc. available to the parties. In the event of use of community funds, the court shall generally state which party shall be charged with the use of such funds at the time of the order. Sale or encumbrance of assets may be ordered when there is no other source for the payment of a fee award.

2. The court, in a routine case, may order attorney's fees on the basis of the payor party's ability to pay on oral request without a detailed showing of proposed services to be rendered. In other cases, counsel should be prepared to establish the expected fees and costs in more detail. The request for substantial fees or costs should set forth in detail and declaration form the amount of total fees incurred to date, the amount paid to date, the source of payments made to date and the need for further fees.

C. FEE ORDERS AT TRIAL

1. Declarations in support of attorney's fees and costs at trial or at the conclusion of a

matter should include a specific statement of services provided. It is seldom useful to the court to simply receive a large stack of monthly billings. The declaration should include:

a. The total fees incurred to date and an estimate of the amount needed to complete the matter;

b. The total payments received to date by counsel and the source of payments (from which party); and

c. Whether there are any prior fee and/or cost orders in the case and whether such orders have been complied with.

2. Generally, fee and cost declarations shall be filed within ten (10) calendar days post trial, unless otherwise ordered.

3. In awarding fees at trial, the court will consider, among other things, the following factors:

a. The nature of the litigation (custody, visitation, property issues, support, etc.).

b. The difficulty of the litigation.

c. The amount of property and debt in dispute.

d. The skill required and actually employed in handling the case.

e. The attention given to the case.

f. The success of the attorney's efforts and the reasonableness of the parties respective positions.

g. The attorneys's learning, experience, and reputation, particularly in handling this type of case.

(Revised 12/1/02)

h. The intricacies and importance of the litigation, the labor, and the necessity

for skilled legal training and ability in trying the case and the time consumed.

i. Any other fact counsel feels is relevant.

j. The respective incomes of the parties, both before and after the payment and receipt of child and spousal support.

k. Any other factors the court determines are just and equitable.

#### IV CUSTODY AND VISITATION

##### D. BASIC POLICY

1. It is the preference of the San Luis Obispo Superior Court that every effort should be made to resolve custody and visitation matters outside of the courtroom in a non-adversary environment before bringing the case to litigation. Contested child custody actions are extremely expensive for the parties, often hurtful to the parties and the children, and consume a considerable amount of energy and time.

2. Parents (and other joined parties) are strongly encouraged to enter into a Parenting Plan which can best meet their children's needs.

(Revised 12/1/02)

3. When a court adjudicates a contested child custody action, it is vested with a great deal of discretion as it determines custodial/visitation arrangements.

##### B. MEDIATION

1. Whenever a case involves unresolved issues over parental responsibilities or access to children, the parties must attend mediation at the Family Court Services section of the Superior Court. The disputing parties meet with a mediator who is employed by the Superior Court. This mediator assists them in attempting to reach a parenting agreement. Individuals maintain some confidentiality in mediation from

what otherwise might be a public record.

2. Mediation MUST occur before the court will hear any contested custodial matter. If there has been mediation prior to an initial hearing for a temporary order, there must be another mediation prior to a trial. There must also be a separate mediation before any court hearing for a modification after the Judgment.

3. Before the parties attend mediation, they should first attend the Family Court Services Mediation Orientation. At the orientation, the parties will be given information sheets to fill out and bring to their actual mediation. They will also be given examples of parenting plan agreements, information about examples of parenting plan agreements, information about resources available to them, parenting plan worksheets, a mediation report example, a form regarding the limits of confidentiality and other useful information. Reservations are made by calling Family Court Services at (805) 781-5423.

4. Mediation in San Luis Obispo County is confidential. No reference (orally or in pleadings) to discussions in mediation may be mentioned in court, nor shall any pleadings be filed referring to mediation other than the fact that it was or was not scheduled. There shall be no reference that any person or attorney signed or did not sign a proposed Parenting Plan.

5. The mediator will not make any recommendations to the court for visitation or custody. The mediator may only suggest to the court the following options:

- a. More mediation time is needed.
- b. Appointment of an attorney to represent the minor children.
- c. A custody/psychological evaluation of the parties, to be paid for by the parties, unless otherwise ordered by the court.

d. A full or abbreviated investigation pursuant to Family Code section 3111 or Evidence Code section 730. Prior to such a recommendation being made, the parties must sign a court-provided stipulation that allocates costs of the investigation to be paid by the parties, unless otherwise ordered by the court.

e. Counseling for the parties and/or children.

f. C.O.P.E. (See below)

g. Upon stipulation of the parties, the mediator may confer with the court and make a recommendation on a parenting plan for the parties.

6. Parties seeking mediation services and the orientation class should contact Family Court Services at 778 Osos Street, Suite A-1, San Luis Obispo, California 93401; telephone (805) 781-5423. (See paragraph C below for details and time requirements for setting mediation dates.) Parties with pending litigation should be provided the first convenient mediation date, preferably within twenty (20) days of the request.

7. Parties who have a family law case filed, but no pending motion before the Superior Court, may request mediation from Family Court Services. Any charge to the parties for elective mediation, where there is no pending court hearing, shall be established by the court and shall be paid, unless waived, prior to the mediation sessions.

8. Any party who has been granted a fee waiver by the court within the six (6) months prior to a request from the Family Court Services for fees for mediator investigations will not be required to pay the fees or costs unless later ordered by the court to reimburse the county for the waived fees or costs or unless their financial circumstances have materially improved.

9. C.O.P.E.



a. The C.O.P.E. class (Co-Parenting Effectiveness) is available for parties in order to learn about co-parenting issues and practice appropriate parenting skills. In the absence of a fee waiver, there is a \$50 charge per person for enrollment.

b. In cases of domestic violence or where there are current restraining orders, the guideline of attending the parenting class before mediation (Section F below) may be waived for the protected party and the class may be attended at another time.

(Revised 12/1/02)

### C. SETTING A MATTER FOR MEDIATION

1. When it appears a case involves unresolved issues over parental responsibilities or parental access to children or which involves access to minor children, counsel or an unrepresented party shall telephone Family Court Services to schedule an appointment for mediation. It is the responsibility of the moving party to schedule the appointment, give written notice to verify the appointment with opposing counsel or unrepresented party at least ten (10) days before the appointment, or as soon as reasonably possible after the appointment is set. Such appointment date, time and place shall be noted on the moving papers to be filed with the court. The moving party shall provide Family Court Services with the case name, case number, home and work telephone numbers of the parties. The moving party shall confirm the appointment with Family Court Services at least five (5) days before the appointment date or indicate why confirmation cannot be made or is doubtful. The responding party to a mediation shall confirm the appointment with Family Court Services at least two (2) days before the appointment date or indicate why confirmation cannot be made or is doubtful, and provide current address and the home and work telephone numbers.

2. No unrepresented party or counsel shall calendar a motion or order to show cause

concerning issues regarding access to children before the date set for mediation unless temporary restraining orders will expire prior to the mediation date, or unless no mediation date is available within twenty-five (25) days of the request for mediation being made. Upon request for Family Court Services, exceptions to this rule may be permitted for parties who reside outside of San Luis Obispo County. The court may hear other issues in the same case prior to the mediation. If it appears to the court that no reasonable effort has been made by the moving party to schedule a mediation session prior to the hearing, the court may remove the issues regarding access to children from the court calendar and take such other appropriate action, including continuing the hearing and/or awarding sanctions.

3. At the time of hearing, if a matter has not been to mediation, the court will refer the parties to mediation and continue the hearing in order to allow for mediation prior to having a contested hearing. The court shall also have the discretion to order mediation the same day in an emergency situation or where it is deemed by the court that it would be a burden to the parties not to proceed the same day. The court has the discretion to make interim orders.

4. If a request to schedule a mediation session has been timely made, but due to scheduling problems, no mediation appointment is available prior to the hearing, it shall be the responsibility of the moving party to have the matter continued on the court's calendar. Notice in writing must be provided to all other parties.

5. The assignment of any particular case to one of the mediators will be solely at the discretion of the supervisor of Family Court Services. If the matter has been mediated previously, the moving party shall so indicate and provide the name of mediator who was previously involved.

6. If a party to a new or previously mediated matter objects

to being assigned to a particular mediator, said party or their counsel shall contact the Family Court Services' supervisor to give notice of the objection or request not to be assigned to a particular mediator. The objection or request shall also be made in writing on a form provided by Family Court Services and the matter will be resolved on a case-by-case basis.

7. Children eight (8) years of age and older who are the subject of unresolved issues shall always be brought to the mediation session unless the mediator responsible for the case directs otherwise. The court may impose sanctions for the wilful failure to produce a child on the party who has the ability to do so. Children under eight years of age shall not be brought to the mediation office unless the mediator responsible for the case specifically directs that they attend.

8. If an interpreter is required to conduct mediation, the party scheduling the appointment shall so notify Family Court Services at the time the appointment is made of such a need and to assist in making arrangements for an interpreter.

9. If one of the parents is in custody in the San Luis Obispo County Jail, the mediator will arrange for telephone mediation. If a parent is in custody in another jurisdiction, a court order may be required.

#### D. MEDIATION PROCESS

1. The mediator may have an initial conference with counsel for each party, or an unrepresented party, prior to the mediation session in order for each side to present a summary of the dispute.

2. Possession of tape recording devices or weapons of any type are not permitted on Family Court Services premises.

3. Individuals associated with the parties who are not authorized by the mediator to

participate in mediation shall not be on Family Court Services' premises nor in the vicinity of those premises before, after, or during the mediation appointment unless previously authorized by the mediator or supervisor of Family Court Services. This includes spouses, parents and significant others. This section does not apply to support persons allowed by Family Code Section 6303.

4. Mediation sessions are to be conducted with only the parties and the children. However, the mediator has the discretion to include other significant persons involved with the family if he or she believes inclusion is helpful to resolution.

5. As provided for in Family Code Sections 3181 and 6303, all cases involving allegations of domestic violence, with current restraining orders, shall be screened by a mediator for determining the necessity of the presence of a support person during mediation, separate waiting areas for the parties, and separate mediation to insure safety and facilitate mediation.

6. The mediator shall meet with the parties separately or together in a joint session in order to isolate the points of agreement and disagreement in an effort to settle the unresolved issues.

7. The mediator may also interview the children privately to assess their needs and interests.

8. The manner in which the session is conducted shall be at the discretion of the mediator. The proceedings shall be confidential with all communications being privileged except as required in Penal Code Sections 11164 through and including 11174.1 (Child Abuse and Neglect Reporting Act) for mandatory reporting of child abuse. The mediator shall advise the parties of this provision before mediation begins.

9. Following the mediation session, the mediator may confer with counsel either in person or by telephone to communicate the results of the session. If an agreement between the parties has been reached, the mediator shall convey and may discuss the terms of such proposed

agreement. A formal stipulation may then be prepared and submitted for signature by the parties and their attorneys, if any.

E. MEDIATION ORDERS

1. Signed Stipulations

Stipulations and proposed orders which have been signed by both parties and their counsel shall be forwarded to a Family Law judicial officer for issuance of the order.

2. Unsigned Stipulations

The attorney shall be notified that the stipulation is ready for signature. Family Court Services shall hold the stipulation for ten (10) days or may send the stipulation to the attorneys by facsimile transmission. If an attorney is not authorized to sign the stipulation, the attorney shall notify Family Court Services. If the attorney has not signed the stipulation within that period, Family Court Services shall report to the court that no agreement has been reached.

3. If, after the 10-day period the attorney or unrepresented party seeks to sign the stipulation, the attorney or unrepresented party shall verify with opposing counsel or party that the stipulation is still a valid agreement. The attorney or unrepresented party is to note verification by writing “verified agreement” below the signature block on the stipulation when signing and dating the agreement.

F. PARENTING CLASS

1. All parties with minor children filing an action to dissolve their marriage or any action to establish a parental access plan involving minor children or which involves access to minor children shall make every effort to attend and complete a required education program entitled, “Children: The Challenge in Divorce” prior to the initial mediation. **The class shall be attended by both parents prior to the entry of any final judgment, unless excused by the court.**

2. Parties are encouraged to register and attend the class at the earliest possible time.

Upon proof of payment of or waiver of the required fee, Family Court Services will submit a Certificate of Completion to the Clerk of the Superior Court after the party's attendance and completion of the class. Pre-registration is required. Parties are to register by contacting Family Court Services.

3. To attend a substitute class out of the area, the parties may make a request by application for an order supported by a declaration.

4. In cases of domestic violence, or where there are current restraining orders, the guideline of attending the parenting class before mediation as set forth in Section F herein may be waived for the protected party and the class may be attended at another time.

#### G. MEDIATION PROBLEMS

Requests for change of mediators or concerns about general problems relating to mediation shall be made initially to the supervisor of Family Court Services. In the event of any disagreement with his or her decision, a party may request a review by the Family Law Judicial Officer.

#### H. CONTESTED HEARINGS/TRIALS

1. An ex parte order request shall not be presented to change custody or visitation, unless a child is facing imminent risk of harm or removal from the area.

2. Any application to change a child's living situation prior to full hearing shall address the following:

- a. The current court order from any court, if one exists.
- b. The current child sharing schedule or agreement, whether formal or informal.

c. Any change in the child's place of residence in the past 120 days and the circumstances surrounding these changes.

d. What time sharing program is proposed.

e. The reasons for any proposed changes in the child's living situation.

f. Any other relevant information.

3. It is the general policy of the court not to change the children's living situation during the pendency of custody and visitation disputes. Only under extraordinary circumstances or as required under the Domestic Violence Protection Act, will the court deny access of one party to the children or order a change of any child's principal place of residence.

4. The Automatic Temporary Restraining Orders that are contained on the back of the Summons in all dissolution and parentage actions restrains both parties from removing the minor children from the State of California without prior written consent of the other party or a court order. This Automatic Temporary Restraining Order remains in effect until a final judgment regarding custody and visitation is made, the case is dismissed or it is revoked by the court.

5. The court may request and appoint an expert evaluator to conduct a Psychological and/or Custody Evaluation and prepare a written report with recommendations for the court's consideration. Child custody evaluations and evaluators must conform to California Rule of Court 1257. Court-ordered psychological evaluations shall be submitted to the court and counsel not less than ten (10) calendar days before the hearing or trial. If these time limits are not met, the hearing or trial shall be continued at the request of either party.

6. In certain situations a court may order the parents and any other party involved in a child custody dispute along with the child to participate in outpatient counseling with a licensed

mental health professional, pursuant to Family Code Section 3190 et. Seq.

7. The court may also appoint a private attorney to represent a minor child(ren) in the custody or visitation proceedings under the Family Code. Attorneys appointed to represent children are entitled to a reasonable sum for compensation and expenses. The attorneys may be paid by the County at the County rate, and the County will seek reimbursement from the parties or they may be paid directly by the parties. The attorney appointed may elect to seek reasonable compensation at a higher rate by the filing of a noticed motion. The parties are responsible for the minor's attorney's fees and costs in equal proportions unless the court orders a different allocation. Where the minor's costs have been waived by the court, the parents are still responsible for reimbursing those costs to the court to the extent the court orders them to do so.

8. The court has the authority to impose restrictions on custody and visitation rights where there is a history of parental drug or alcohol abuse, domestic violence, and certain other violent crimes.

#### IX. SEVERANCE OF CUSTODY HEARING

If child custody is the sole contested issue, the case will be given calendar preference over other cases according to law. If it is one of many issues in a case, then the custody matter may be bifurcated for a separate trial on the issue of custody or visitation.

#### J. CHILDREN'S TESTIMONY

Generally speaking, the court discourages testimony and declarations by minor children. The court must consider the wishes of the children who have reached a sufficient age to form an intelligent custodial/visitation preference. The child's preference is only one factor in a court decision. The court shall decide the manner by which it learns of the child's preference. The court will take measures to protect the child from harassment, embarrassment, or emotional harm, et



cetera.

K. PRESENCE OF CHILDREN

While the children who are the subject of litigation may appear at the courthouse, it is the policy of the court not to have any subject child in the courtroom without the court's prior knowledge and consent. Children shall remain in the hallway or elsewhere in the care of a responsible person who is not a party to the matter.

**SECTION FOUR**

**MODIFICATION OF THE MANUAL OF POLICIES AND PROCEDURES**

This manual will be revised for possible modification and amendments on an annual basis. The Family Law Section shall designate a committee to meet with the Presiding Family Law Judge, a representative from the Superior Court Clerk's Office, the Family Law Facilitator, and such other individuals or judicial officers as may be designated by the Presiding Family Law Judge.

Recommendations for changes shall be submitted by all interested parties to any of the aforementioned representatives. The committee and the court after discussing all proposals, will prepare a slate of recommended modifications in writing. The written slate will be presented to the bench and members of the Family Law Section for review and comment.

Any modifications recommended by the committee from the Family Law Section and approved by the bench shall thereafter be implemented. Changes will be made to the Manual of Policies and Procedures for Family Law and announced by the court on an appropriate family law calendar.

**FAMILY LAW DIRECT CALENDAR**  
Final Draft

**Dept 3 – Judge Estrada-Mullaney**

	Monday	Tuesday	Wednesday	Thursday	Friday
8:00	Ex parte		Ex parte		Ex parte
9:00	<i>Law &amp; Motion</i>	<i>Law &amp; Motion Readiness Misc. OSC's, Status</i>	<i>Law &amp; Motion</i>	Trial	Trial
10:30	Trial	Trial	Trial		
12:00	Lunch	Lunch	Lunch	Lunch	Lunch
1:30	Trial or Mediation	Trial or Mediation	Trial or Mediation	Trial or Mediation	Trial or Mediation

**Dept 4 – Judge Burke**

	Monday	Tuesday	Wednesday	Thursday	Friday
8:00	Ex parte		Ex parte		Ex parte
9:00	<i>Law &amp; Motion Readiness, Status</i>	<i>Law &amp; Motion</i>	<i>Law &amp; Motion</i>	Trial	Trial
10:30	Trial	Trial	Trial		
12:00	Lunch	Lunch	Lunch	Lunch	Lunch
1:30	Trial or Mediation	Trial or Mediation	Trial or Mediation	Trial or Mediation	Trial or Mediation

**Dept 12 – Comr. Garrett**

	Monday	Tuesday	Wednesday	Thursday	Friday
8:00	Ex parte		Ex parte	8:30 AB1058	Ex parte
9:00	<i>Law &amp; Motion</i>	<i>Law &amp; Motion</i>	<i>Law &amp; Motion Readiness, Status</i>		Trial
10:30	Trial	Trial	Trial		
12:00	Lunch	Lunch	Lunch	Lunch	Lunch
1:30	DV	Trial or Mediation	Trial or Mediation	Trial	Trial or Mediation

Ex partes: max of 6 per day (2 per court)

Law & Motion: max 6 per department per day

12/16/02 8:38 AM

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**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO**

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demo case	Plaintiff(s),  VS.  Defendant(s).	CASE NUMBER  SA100000
		<b>Family Law Notice of Assignment</b>

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Court's Copy

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**NOTICE OF ASSIGNMENT FOR ALL PURPOSES**

Effective December 1, 2002, the above entitled matter is assigned to  
**Unknown Judge** for all purposes.

The petitioner/plaintiff/moving party is to serve the opposing party with this notice.

The local policies and procedures, rules and forms are available on the San Luis Obispo Superior Court website at  
**[www.slocourts.net/](http://www.slocourts.net/)** or from the Clerk's Office at:

1035 Palm Street, Room 385, San Luis Obispo, CA 93408

214 South 16th Street, Grover Beach, CA 93433

549 10th Street, Paso Robles, CA 93446

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO**

demo case  vs.  Plaintiff(s),  Defendant(s).	CASE NUMBER  SA100000
	Notice of Assignment & Status Conf.

Court's Copy

This case is assigned to **Unknown Judge** for all purposes.

The parties or their attorneys must appear for a Family Law Status Conference on:

**January 3, 2000 at 9:00 am in Calendaring's Tickler File.**

Petitioner must serve a copy of this notice, a blank status conference statement and the Court's ADR policy, with the Summons and Petition.

At least 10 calendar days before the scheduled Status Conference, each party must file with the court and serve on all other parties a Status Conference Statement.

At the Status Conference, the court **may** take action and make orders including, but not limited to the following:

1. Refer to mediation or set a settlement conference.
2. Refer valuation and division of household items to judicial arbitration.
3. Appoint an attorney for minor child(ren).
4. Order evaluation under FC3111 or appoint a psychologist under EC730.
5. Appoint an expert.
6. Bifurcate issues.
7. Set a schedule for discovery matters and compliance
8. Set the matter for trial
9. Set another status conference. 11/20/00

## ALTERNATIVE DISPUTE RESOLUTION POLICY STATEMENT

### WAYS TO RESOLVE YOUR DISPUTE WITHOUT A TRIAL Presented by the San Luis Obispo County Superior Court

The mission of your Superior Court is to resolve civil disputes fairly and efficiently. It is the court's policy to encourage persons involved in a lawsuit to consider methods other than a trial to resolve their disputes.

Did you know that 95% of all cases filed in court do not go to trial? Most cases are settled or decided in some other way. In fact, methods of settling disputes that do not require a trial have become the first choice of most businesses, government agencies and unions. Agreements to mediate or arbitrate disputes are now commonly found in contracts covering employment, medical care, banking and insurance.

Alternative Dispute Resolution is a catch-all term that refers to the ways other than a trial that can be used to resolve the dispute you brought to the courthouse. These options are typically less formal than trial and many provide opportunities to reach an agreement through a problem-solving approach rather than the adversarial approach of a trial. ADR can save time, reduce costs and increase your overall satisfaction with the outcome.

#### THE ADVANTAGES OF ADR

- **Reduce Legal Costs:** Nearly all cases are resolved without a trial. If a settlement is likely anyway, wouldn't it be better to save attorneys fees, court costs and experts fees by settling early? In a recent survey, two thirds said they saved money by using ADR.
- **Reduce The Time Spent on the Dispute:** A dispute can usually be decided or settled much sooner by using ADR. It is almost always less expensive.
- **Increase Control Over the Result:** Some methods of ADR allow the parties to fashion creative resolutions that are not available in a trial. Other ADR methods permit the parties to entrust a decision about the dispute to an expert in a particular field instead of to a judge or a jury without the same experience or knowledge. And in ADR, both the dispute and its resolution can remain confidential.
- **Preserve Relationships:** ADR is generally a less adversarial and hostile forum for dispute resolution than a trial. An experienced mediator or arbitrator can help the parties effectively communicate their needs and point of view to the other side. This can be an important advantage where the parties have a relationship to preserve.
- **Increase Satisfaction:** In ADR, the parties usually have a better chance to tell their side of the story than they do in trial. This increases the likelihood the case will settle as well as the parties' overall satisfaction with the outcome.
- **Improve Attorney-Client Relationships:** Attorneys may benefit from ADR by being seen as problem-solvers instead of as aggressive advocates. Quick, cost-effective results are likely to produce repeat and new business from clients and their friends and associates.

#### WHAT ARE THE ADR OPTIONS?

- **MEDIATION**

In mediation, an independent, neutral person called a mediator helps the parties reach a mutually acceptable resolution of their dispute. The mediator does not decide the dispute but is trained to help the parties communicate so they can settle the dispute on terms they design themselves.

If mediation does not result in a settlement, the case is returned to court. And if the case goes to trial, there are laws that protect the confidentiality of the things discussed during mediation.

**Advantages:** Mediation leaves control of the outcome with the parties. It may be a particularly effective tool when

the parties have a continuing relationship to consider such as persons who work together, are neighbors or are members of the same family. Mediation is also effective where emotions are blocking a resolution. An effective neutral mediator can hear the parties out and help them communicate with each other in an effective and non-destructive manner.

**Disadvantages:** Mediation may be ineffective if one of the parties will not cooperate or is unwilling to compromise. And it may not be a good choice if the history of the parties includes abuse or victimization. Mediation may not produce a satisfactory resolution of the dispute if one of the parties has a significant advantage in power or rank that cannot be neutralized by the mediator.

- **ARBITRATION**

In arbitration, an independent, neutral person called an arbitrator decides what the outcome of the dispute will be. Each side presents evidence supporting its case in a setting that is more informal than a trial. Rules of evidence are relaxed.

Arbitration may be either "binding" or "non-binding." Binding arbitration means that the parties waive their right to a trial and agree to accept the arbitrator's award as final. Generally, there is no right to appeal an arbitrator's final decision. Non-binding arbitration means that the parties are free to request a trial by a judge or a jury if they are unwilling to accept the arbitrator's findings and award.

**Advantages:** Arbitration is informal and usually less expensive than a trial. If the dispute involves a particularly complex matter, the parties can select an arbitrator who has training or experience in the subject matter of the dispute. If the dispute is not complex, the parties may simply wish to avoid the expense of a trial.

**Disadvantages:** Generally, there is no appeal from a arbitrator's finding or award even if it is not supported by the evidence or the law. If a party to a non-binding arbitration requests a trial, there may be penalties for failing to achieve a better result.

- **NEUTRAL EVALUATION**

In early neutral evaluation, the parties employ an expert in the subject matter of the dispute and ask him or her to give them an opinion about how the dispute ought to be resolved. The expert's opinion is not binding and the parties use it to negotiate a resolution of the dispute.

**Advantages:** Neutral evaluation can produce early, creative settlements. If the parties are willing to listen and to compromise, the opinion of an expert they mutually select can provide a solid foundation for a long-lasting agreement.

**Disadvantages:** An expert can be expensive. The parties usually agree that neither the expert nor his or her opinion can be used in a trial if they cannot agree.

- **COURT-SUPERVISED SETTLEMENT CONFERENCE**

Settlement conferences may be either mandatory or voluntary. In both types of settlement conferences, the parties and their attorneys meet with a judge or a court-supervised settlement conference officer. The settlement conference judge or officer does not make a decision that is binding upon the parties. The judge or settlement officer helps the parties evaluate the case and to make decisions about settlement.

**Advantages:** A mandatory settlement conference gives the parties an opportunity before trial to negotiate a settlement in light of what they learned investigating the case and through discovery. The opinion of a settlement judge about the most likely outcome may inspire the parties to reevaluate their positions.

**Disadvantages:** A mandatory settlement conference is usually late in the life of a litigated dispute. It comes only after time and money has been spent preparing for trial. The parties' positions may have been hardened by what they have been through and they may be less willing to compromise.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number and address).			
TELEPHONE NO:	FAX NO: (OPTIONAL)		
E-MAIL ADDRESS (OPTIONAL)			
ATTORNEY FOR:			
<b>SUPERIOR COURT OF SAN LUIS OBISPO COUNTY</b> San Luis Obispo Branch 1035 Palm Street, Room 385, San Luis Obispo, CA 93408-2500 web site: www.slocourts.net			
PETITIONER/PLAINTIFF:			
RESPONDENT/DEFENDANT:			
<b>FAMILY LAW STATUS CONFERENCE STATEMENT</b> HEARING DATE:                      TIME:                      DEPT:			CASE NO:

- Respondent has (not) been served
- Attorney for petitioner is \_\_\_\_\_  
Attorney for respondent is \_\_\_\_\_
- General Issues in the case are: (check those that apply)
 

<input type="checkbox"/> Child custody	<input type="checkbox"/> Child visitation
<input type="checkbox"/> Child support	<input type="checkbox"/> Spousal support
<input type="checkbox"/> Determination and valuation of community property	
<input type="checkbox"/> Pension valuation	<input type="checkbox"/> Business valuation
<input type="checkbox"/> Operation of business	<input type="checkbox"/> Attorneys' fees and costs
- The current estimate of court time to try this case is \_\_\_\_\_ hours/days
- There have been the following efforts made so far to settle this case (DO NOT provide special information of offers – only that the offer was made) \_\_\_\_\_
- This party is willing to participate in or is not opposed to (check all that apply)
 

<input type="checkbox"/> Mediation	
<input type="checkbox"/> Judicial arbitration	
<input type="checkbox"/> Status conference to be continued for:	
<input type="checkbox"/> Additional discovery	<input type="checkbox"/> Joinder of
<input type="checkbox"/> Attorney appointed for child(ren) FC 3150	<input type="checkbox"/> Custody evaluation pursuant to FC 3111
<input type="checkbox"/> Psychological evaluation pursuant to EC 730	<input type="checkbox"/> Expert appointed pursuant to EC 730
<input type="checkbox"/> Other _____	
<input type="checkbox"/> Bifurcate Issue of (split-off issue of)	
<input type="checkbox"/> Other	
- The parties have (not) met and conferred.
- Related, companion or underlying cases
  - Case number
  - Name of case
  - Status

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date \_\_\_\_\_

Signature \_\_\_\_\_

ATTORNEY OR PARTY

## MEMORANDUM

TO: All Counsel

FROM: E. JEFFREY BURKE, Presiding Judge  
CAROL K. ALLEN, Judge  
TERESA ESTRADA-MULLANEY, Judge  
ROGER T. PICQUET, Judge  
DONALD G. UMHOFFER, Judge

RE: CourtCall Telephonic Appearances

DATE: October, 2000

For appearances on and after November 1, 2000 we will begin use of CourtCall to conduct telephonic appearances by counsel ("CourtCall Appearances") in certain nonevidentiary hearings including Status Conferences, Trial Readiness Conferences, Orders To Show Cause, Law and Motion matters and certain Family Law, Probate and Ex Parte matters]. **AS EACH JUDGE'S USE MAY VARY, CONTACT COURTCALL FOR DETAILS.** We hope that this will make your practice more productive and enjoyable and will reduce the cost of litigation.

Counsel may make a CourtCall Appearance by serving and submitting to CourtCall, **NOT LESS THAN FIVE (5) COURT DAYS PRIOR TO THE HEARING DATE OR 5:00 PM ON THE COURT DAY PRIOR TO HEARING WHERE THERE IS A TENTATIVE RULING**, a Request for Telephonic Appearance Form and paying a fee of \$60.00 for each CourtCall Appearance. For example, the submission and payment for a CourtCall Appearance on November 9, 2000 must be made not later than November 2, 2000. Required submission and payment procedures are detailed within the accompanying instruction sheet entitled: "How To Use CourtCall."

A CourtCall Appearance is made as part of a Court's regular calendar and all counsel who have timely filed their request form and paid the fee may appear by dialing the Courtroom's dedicated toll free teleconference number, and access code (if any) which will be provided by CourtCall, LLC on the confirmation faxed to your office. A pre-hearing check-in will occur five minutes prior to the scheduled hearing time. A CourtCall Appearance is voluntary and may be made without consent of the other party or advance consent of the Court, which, however, reserves the right to reject any request. In matters where only one party elects to make a CourtCall Appearance, the matter will be heard on the Court's speakerphones.

The CourtCall Calendar shall be conducted in conformity with state law and rules of court. The request forms are now available for pick-up in the participating Courtrooms or by calling the CourtCall Program Administrator, CourtCall, LLC at (310) 572-4670 or (888) 88-COURT. For information about CourtCall please call CourtCall, LLC, not the participating Courtrooms!



ATTORNEY OF RECORD (Name /Address/Phone/Fax):  State Bar No. _____ ATTORNEY FOR (Name): San Luis Obispo Superior Court	DO NOT FILE WITH COURT  COMPLETELY FILL OUT/CORRECT FORM BEFORE SUBMITTING TO COURTCALL!!
	CASE NUMBER:  JUDGE/DEPARTMENT:  DATE AND TIME:  NATURE OF HEARING:
REQUEST FOR COURTCALL TELEPHONIC APPEARANCE	

1. \_\_\_\_\_ (Name of specific attorney appearing telephonically) requests a CourtCall telephonic calendar appearance at the above referenced proceeding and agrees to provisions of the Rule/Order/Procedure Re: CourtCall Telephonic Appearances. I UNDERSTAND THAT I DIAL INTO THE CALL FIVE MINUTES BEFORE ITS SCHEDULED START TIME.
2. Not less than five Court days prior to hearing, a copy of this document was served on all other parties and faxed to CourtCall, Telephonic Appearance Program Administrator at (310) 572-4679 OR (888) 88-FAXIN.
3. The non-refundable CourtCall Appearance Fee in the sum of \$60.00 (plus additional fee of \$35.00 if late filing is accepted) is paid as follows:

Check (copy attached-write case # on check-and faxed to CourtCall at (310) 572-4679 or (888) 88-FAXIN payable to Telephonic Hearing Account and original mailed to CourtCall at 11288 W. Washington Blvd., Suite 200, Culver City, CA 90230; telephone (310) 572-4670 or (888) 88-COURT.

Charged to CourtCall Debit Account No.: \_\_\_\_\_

Charged to VISA, MasterCard or American Express:

TO BE COMPLETED ONLY ON THE COPY SUBMITTED TO CourtCall, LLC:	
Credit Card:	<input type="radio"/> VISA <input type="radio"/> MasterCard <input type="radio"/> American Express
Credit Card Number: _____	Expiration Date: _____
To pay by credit card, the copy of this form submitted to CourtCall, LLC, must be signed by the person whose card is to be charged and must be faxed to CourtCall at (310) 572-4670 or (888) 88-FAXIN with the above credit card information completed. The signature below constitutes authorization to charge the above referenced credit card.	
Date: _____	Name on Card: _____
	Type Name                      Signature

4. Request Forms are usually processed within 24 hours. Call CourtCall if you do not receive a faxed Confirmation from CourtCall on or before the Court day preceding your CourtCall Appearance. WITHOUT A WRITTEN CONFIRMATION YOU ARE NOT ON THE COURTCALL CALENDAR!

Filed: \_\_\_\_\_

Signature \_\_\_\_\_

**COURTCALL, LLC**  
*Telephonic Court Appearances*  
11268 WEST WASHINGTON BOULEVARD  
SUITE 200  
CULVER CITY, CALIFORNIA 90230  
(TEL) (310) 572-4670 (888) 88-COURT  
(FAX) (310) 572-4679 (888) 88-FAXIN

**How To Use CourtCall**

**Filling Out The Form**

1. **Serve:** Not less than 5 Court Days before the hearing **COMPLETELY** fill out the original of the Request for CourtCall Appearance (the "Request Form"). Retain the original Request Form in your file. **DO NOT FILE IT WITH THE COURT.** Check the box indicating the method of payment of the fee. **INCOMPLETE REQUEST FORMS MAY RESULT IN A DELAY IN PROCESSING!**

2. **Fax to CourtCall:** Fax a copy of the Form to CourtCall not less than 5 Court days prior to the hearing. Do not fail to do so, as the CourtCall Calendar is set through these faxes!! **LATE FILINGS, IF ACCEPTED, ARE SUBJECT TO A LATE FEE!!**

3. **Payment by Credit Card:** Fill out credit card information only on the copy faxed to CourtCall and have that copy **SIGNED** by the **PERSON** WHOSE NAME IS ON THE CREDIT CARD.

4. **Payment by Check:** Fax a copy of check -- write case # on check-payable to Telephonic Hearing Account to CourtCall with your Form and mail your check and a copy of your Form to CourtCall.

5. **Proof of Payment/Calendar Confirmation:** Under normal circumstances you should receive a Confirmation from CourtCall, by fax, within 24 hours of submission of a completed Request Form. The Confirmation will contain your teleconference number and access code (if any\*\*).

**IF YOU DO NOT RECEIVE YOUR FAXED CONFIRMATION FROM COURTCALL ON OR BEFORE THE COURT DAY PRECEDING YOUR HEARING, CALL COURTCALL IMMEDIATELY TO VERIFY YOUR STATUS -- WITHOUT A WRITTEN CONFIRMATION YOU ARE NOT ON THE COURTCALL CALENDAR!**

FOR INFORMATION AND QUESTIONS ABOUT A COURTCALL APPEARANCE, CALL COURTCALL, NOT THE CLERK/COURT!

**When You Make The Call**

\* **YOU MUST CALL THE TOLL FREE NUMBER ON YOUR CONFIRMATION 5 MINUTES BEFORE YOUR SCHEDULED HEARING TIME.. NEVER USE A CELLULAR OR PAY PHONE.** If prompted, dial your 8-digit Access Code.\*\* You will be advised whether you are joining the call in progress or if you are the first to call or you may be placed on "music-on-hold."

\* If Court has commenced, **DO NOT INTERRUPT!** You will have an opportunity to speak. If the call is in progress and you hear voices, wait until an opportunity to speak arises without interrupting others. The Clerk may be performing a check-in and will get to you.\*\*

\* After check-in wait until your case is called. Use your speakerphone while waiting if you are able to mute the microphone to eliminate ambient noise. When your case is called you **MUST USE THE HANDSET.** Identify yourself each time you speak and use common courtesy.

\* If you are the first person on the call be patient, even if you experience silence or are placed on "music-on-hold," as the Clerk will join the call in due course. As others join you will hear a mild beep-beep" indicating others are on the line. Until your case is called do not speak other than with the Clerk. \*\* If the Clerk does not join the call within 15 minutes after your scheduled hearing time, have a staff member call CourtCall on our toll free Help Line -- (888) 882-8878 and we will be happy to assist you. **DO NOT LEAVE THE LINE!**

\*\*If the Confirmation from CourtCall does not list an access code with your assigned teleconference number, your matter will be heard privately, not in open court. The 5 minute check-in period will be conducted by an AT&T Operator who will conduct the conference in accordance with the Court's instructions. You will be placed on "music-on-hold" while you wait for the Judge to call your matter. The rules regarding cell phones and use of handsets apply.

**IF YOUR HEARING IS CONTINUED YOU MUST NOTIFY COURTCALL OF THE CONTINUANCE, IN WRITING, PRIOR TO YOUR COURTCALL APPEARANCE TO HAVE YOUR FEE APPLY TO THE CONTINUED HEARING. MATTERS CONTINUED AT THE TIME OF THE HEARING REQUIRE A NEW FORM AND A NEW FEE FOR THE CONTINUED DATE.**

# CHILD SUPPORT CALCULATIONS WORKSHEET

Court Docket NO. \_\_\_\_\_

DAFED File NO. \_\_\_\_\_

	DA's Information Pertaining to Father	Father's Position Regarding Disputed DA Information	DA's Information Pertaining to Mother	Mother's Position Regarding Disputed DA Information
Number of children in this case living with custodial parent				
% Time child spends with non-custodial parent				
Tax filing status and Number of exemptions				
Gross wages per month (before taxes)				
Self-employment income				
Other non-taxable income				
New spouse income *				
Spousal support paid for other relationship				
Child support paid for other children				
Health insurance				
Property taxes				
Mortgage interest				
Union dues				
Mandatory retirement				
Hardship deduction: Number of your minor children from other relationships living in your home (not step children)				
Child care costs for children in this case				

\*New spouse income is only considered for the purpose of determining income tax liability

I agree with these findings:

I agree with these findings:

Father's signature and date

Mother's signature and date

**SUPERIOR COURT OF SAN LUIS OBISPO COUNTY**  
San Luis Obispo Branch, 1035 Palm Street, Rm 385, San Luis Obispo, CA 93408

Website: [www.slocourts.net](http://www.slocourts.net)

Plaintiff/Petitioner:

vs.

Defendant/Respondent:

**FAMILY LAW MEDIATOR'S REPORT**

CASE NO:

Petition filed \_\_\_\_\_

Referred to mediation \_\_\_\_\_

Mediation took place on \_\_\_\_\_

**DISPOSITION**

- ☐ All issues were resolved.
- ☐ The following issues were resolved: \_\_\_\_\_
- ☐ No issues were resolved.

**MEDIATOR'S RECOMMENDATIONS**

- ☐ Case set for further mediation on  
Date: \_\_\_\_\_ Time: \_\_\_\_\_ Dept: \_\_\_\_\_
- ☐ Case to remain set for: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Mediator

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number and address):		
TELEPHONE NO:	FAX NO: (OPTIONAL)	
E-MAIL ADDRESS (OPTIONAL):		
ATTORNEY FOR:		
<b>SUPERIOR COURT OF SAN LUIS OBISPO COUNTY</b> San Luis Obispo Branch 1035 Palm Street, Room 385, San Luis Obispo, CA 93408-2500 web site: www.slocourts.net		
PETITIONER/PLAINTIFF:		
RESPONDENT/DEFENDANT:		
STIPULATION AND ORDER RE CONTINUANCE		CASE NO:

We, the undersigned, hereby stipulate that the matter currently set for \_\_\_\_\_

shall be continued to

Date: \_\_\_\_\_

Time: \_\_\_\_\_ a.m./ p.m.

Department: \_\_\_\_\_

Dated \_\_\_\_\_

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Attorney for Petitioner

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Attorney for Respondent

### ORDER

It is so ordered.

Dated \_\_\_\_\_

\_\_\_\_\_  
Judge of the Superior Court

Name, Address & Telephone Number of Attorney:		
Attorney for:		
<b>SUPERIOR COURT OF SAN LUIS OBISPO COUNTY</b> Civil Court Operations <input type="checkbox"/> <b>San Luis Obispo Branch</b> , County Government Center, 1035 Palm Street, Rm 385, San Luis Obispo, CA 93408 <input type="checkbox"/> <b>Grover Beach Branch</b> , 214 South 18th Street, Grover Beach, CA 93433 <input type="checkbox"/> <b>Paso Robles Branch</b> , 548 10th Street, Paso Robles, CA 93448		
Plaintiff/Petitioner:		
Defendant/Respondent:		
<b>REQUEST FOR DEFAULT SETTING</b> (Domestic Relations & Civil Actions)		CASE NO:

TO THE CLERK OF THE COURT:

Request is hereby made that the within matter for (check appropriate box)

- |                                       |   |
|---------------------------------------|---|
| <input type="checkbox"/> CIVIL ACTION | <input type="checkbox"/> UNLAWFUL DETAINER        |
| <input type="checkbox"/> DISSOLUTION  | <input type="checkbox"/> NULLITY/LEGAL SEPARATION |

be set on the default calendar as set forth below for the following:

- |  |                                    |
|--|------------------------------------|
| <input type="checkbox"/> for entry of default* | <input type="checkbox"/> testimony |
|--|------------------------------------|

DATE: \_\_\_\_\_

TIME: \_\_\_\_\_

DEPT: \_\_\_\_\_

DATED: \_\_\_\_\_

SIGNED: \_\_\_\_\_

Attorney for moving party or party without attorney

\*default not entered by clerk

# DOMESTIC JUDGMENT WORKSHEET, Page 1

	<b>Required:</b>	
<b>Summary Dissolution:</b>	1. Completed worksheet pages 9, 11, & 13 (need not be typed) [FC §2108]	Joint Petition must be signed by both parties. If property is indicated on the worksheets, a typed, double-spaced Property Agreement is required. Judgment is entered upon submission by either party of "Request to Enter Judgment, Judgment of Dissolution of Marriage, and Notice of Entry of Judgment" unless a Notice of Revocation has earlier been filed by one of the parties.
<b>Bifurcation-Status Only:</b>	1. Parenting Class	Petitioner: Respondent:
		-or- waiver of parenting class [Local Rule 20(c)]
for default:	2. Petitioner's Decl. Re: Prelim. Disclosure and	
	3. Court order waiving remaining disclosures	-or- Court order after hearing preventing testimony.
for contested matter:	4. Decl. of Prelim. Discl.	Petitioner: Respondent:
		-or- Ship & Order to defer Prelim. Disclosures.
<b>Default Judgment: (No appearance by Respondent)</b>	<input type="checkbox"/> Dissolution <input type="checkbox"/> Legal Separation <input type="checkbox"/> Nullity <input type="checkbox"/> With Marital Settlement Agreement <input type="checkbox"/> Stipulated Judgment <input type="checkbox"/> Child Support Registry	
	1. Parenting Class	Petitioner: Respondent:
		-or- waiver of parenting class [Local Rule 20(c)]
	2. Preliminary Disclosures	Petitioner: Respondent:
		-or- Declaration and court order waiving Respondent's Prelim. Disclosure and final disclosures for both parties -or- Court order after hearing preventing testimony [FC §2107(b)] -or- Petition contains no request for money, property, fees/costs. [FC 2330.5]
	3. Final Disclosures	Petitioner: Respondent:
		-or- same as above for preliminary disclosures plus a stipulated waiver of final disclosures using FC2105(c) language.

# DOMESTIC JUDGMENT WORKSHEET, Page 2

		<b>Required:</b>				
<b>Judgment:</b> (after appearance by both parties) <input type="checkbox"/> Dissolution <input type="checkbox"/> Legal Separation <input type="checkbox"/> Nullity <input type="checkbox"/> With Marital Settlement Agreement <input type="checkbox"/> Stipulated Judgment <input type="checkbox"/> After Contested Trial <input type="checkbox"/> Child Support Registry		<b>After contested trial -or- By Stipulation -or- With MSA attached.</b>				
		1. Parenting Class		Petitioner:		Respondent:
				-or- waiver of parenting class [Local Rule 20(c)]		
		2. Preliminary Disclosures		Petitioner:		Respondent:
				-and- Final disclosures for both parties -or- Court order after hearing preventing testimony [FC §2107(b)] -or- Petition contains no request for money, property, fees/costs. [FC 2330.5]		
3. Final Disclosures		Petitioner:		Respondent:		
*Final Disclosures must be served 45 days before trial [FC§2105(c)] unless waiver of 45 day rule is filed.		-or- Stipulated waiver of final disclosures [FC2105(c)]. Stipulated waiver requires FC 2105(c) language.				
4. Child Support Case Registry Form: This form must be completed and delivered to the court along with the court order for support. Your Judgment will not be entered if there are support orders and this form is not submitted.						
<b>Judgment on Reserved Issues:</b> <input type="checkbox"/> Includes statement re: date of Entry of Judgment						
Bifurcation of Marital Status requires only Preliminary disclosures. If only Preliminary disclosures were filed at entry of Judgment, Status Only, final disclosures are required prior to entry of Judgment on Reserved Issues. If you completed both Preliminary and Final disclosures prior to Judgment-Status Only, no further disclosure is required. If the Judgment on Reserved Issues modifies a previous support order, a new Child Support Case Registry Form must be submitted.						



### DOMESTIC JUDGMENT WORKSHEET, Page 3

Please be advised that the parenting class, "Children: The Challenge of Divorce" is required before any Judgment is entered by the court. The class is presented by the San Luis Obispo Superior Court, Family Court Services (FCS) and the cost is \$20. The fee must be paid in advance at the San Luis Obispo County Clerk's office and the receipt for payment presented at the class. For information regarding class times and content, call FCS at 781-5423. The only exception to this rule is a declaration and court order waiving parenting class [Rule 20(c)].

Both parties must be in compliance with Family Code §2105(c) before a Judgment-Status Only, After Bifurcation [FC 2337] can be entered. That section requires the following:

- a. Statement of compliance with service of preliminary declarations of disclosure; and,
  - b. Statement that Income and Expense Declarations were exchanged.
- or-
- a. Stipulation and Order to defer Preliminary Disclosures [FC 2337(b)]

Default Judgments, Stipulated Judgments (no appearance by Respondent [FC 2336]) or Judgments with Marital Settlement Agreements or after contested trials will not be entered unless both parties have attended the parenting class. Both parties must also serve preliminary and final declarations of disclosures on the other.

If preliminary disclosures were served but the parties agree final disclosures can be waived, a stipulated waiver can be made (either in writing or on the court record) and must include FC 2105(c) language as follows:

- 1) Both parties have complied with Section 2104 and the preliminary declarations of disclosure have been completed and exchanged.
- 2) Both parties have completed and exchanged a current Income and Expense Declaration.
- 3) The waiver is knowingly, intelligently, and voluntarily entered into by each of the parties.
- 4) Each party understands that by signing the waiver, he or she may be affecting his or her ability to have the judgment set aside as provided by law.

The Income & Expense Declaration is Judicial Council form 1285.50. The form that needs to be filed with the court as proof of service of either preliminary and/or final disclosures is Judicial Council form 1292.05.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number and address):		
TELEPHONE NO: E-MAIL ADDRESS (OPTIONAL) ATTORNEY FOR:	FAX NO: (OPTIONAL)	
<b>SUPERIOR COURT OF SAN LUIS OBISPO COUNTY</b> <b>San Luis Obispo Branch</b> 1035 Palm Street, Room 385, San Luis Obispo, CA 93408-2500 web site: www.slocourts.net		
PETITIONER/PLAINTIFF:	Date: Time: Dept: Assigned Judge:	
RESPONDENT/DEFENDANT:		
NOTICE OF INTENT TO INTRODUCE ORAL TESTIMONY		CASE NO:

Pursuant to rule 323(a) of the California Rules of Court, the petitioner/respondent, requests permission to introduce oral testimony and submits the following written statement of the nature and extend of the oral evidence to be introduced at the hearing.

Extent and nature of the evidence

The evidence to be introduced at the law and motion hearing will be sought from the oral testimony to be given by \_\_\_\_\_  
with regard to the issues of \_\_\_\_\_.

I estimate that the hearing of this matter will take approximately \_\_\_\_\_minutes.

Date: _____	Attorney or party _____
-------------	-------------------------

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address and Telephone)

ATTORNEY FOR (Name):

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO  
JOINT AT-ISSUE MEMORANDUM (FAMILY LAW)**

Short Title of Case:

Case Number:

**NOTICE TO ALL PARTIES:** All parties shall cooperate in the preparation of this Joint At-Issue Memorandum in order that it may be signed by all parties. Failure to cooperate and file a timely joint memorandum may subject the non-cooperating parties to sanctions.

1. Please provide the following statistical information:
  - a. Date Petition filed: \_\_\_\_\_
  - b. Date Response filed: \_\_\_\_\_
  - c. Estimated time for trial: \_\_\_\_\_
2. Please provide a statement of presenting issues: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. Is this case entitled to priority? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If so, provide reason: \_\_\_\_\_ Child custody/move-away \_\_\_\_\_ Other \_\_\_\_\_
4. Have the parties attended the mandatory parenting class? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If no, please explain: \_\_\_\_\_
5. Have Preliminary Declarations of Disclosure been served? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If no, please explain: \_\_\_\_\_
6. Have Final Declarations of Disclosure been served? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If no, please explain: \_\_\_\_\_
7. Will discovery be completed within 30 days? \_\_\_\_\_ Yes \_\_\_\_\_ No
8. Are any law and motion matters pending or anticipated? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, please explain: \_\_\_\_\_
9. Is alternate dispute resolution (i.e., arbitration, mediation) appropriate? \_\_\_\_\_ Yes \_\_\_\_\_ No  
If no, please explain: \_\_\_\_\_
10. Is a Mandatory Settlement Conference requested? \_\_\_\_\_ Yes \_\_\_\_\_ No
11. Is there any legal reason why this case is not ready for a Trial Readiness Conference or Trial? Please explain: \_\_\_\_\_  
\_\_\_\_\_

**NOTE:** ALL SIGNATORIES ON THIS PAGE CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE STATEMENTS SUBMITTED ARE TRUE AND CORRECT.

NAMES, ADDRESSES AND TELEPHONE NUMBERS OF ALL ATTORNEYS IN THIS ACTION ARE TO BE LISTED ON THIS FORM. SIGNATURES OF ATTORNEYS OR ALL PARTIES ARE REQUIRED ON THIS FORM REGARDLESS OF AGREEMENT OR DISAGREEMENT WITH THE TERMS COMPLETED.

THE PARTY ORIGINATING THIS MEMORANDUM IS RESPONSIBLE FOR THE JOINT AT-ISSUE MEMORANDUM BEING SIGNED BY ALL PARTIES, FILED WITH THE COURT AND PROVIDING ALL PARTIES WITH A CONFORMED COPY.

<input type="checkbox"/> Plaintiff/Petitioner	<input type="checkbox"/> Defendant/Respondent	<input type="checkbox"/> I do not agree with the following items: (Specify item numbers and reasons below)
Party:		
Attorney:		
Firm:		
Address:		
Phone:		
Dated: _____ Signature: _____		
<input type="checkbox"/> Plaintiff/Petitioner	<input type="checkbox"/> Defendant/Respondent	<input type="checkbox"/> I do not agree with the following items: (Specify item numbers and reasons below)
Party:		
Attorney:		
Firm:		
Address:		
Phone:		
Dated: _____ Signature: _____		
<input type="checkbox"/> Attorney for Minor Child(ren)	<input type="checkbox"/> Claimant	<input type="checkbox"/> I do not agree with the following items: (Specify item numbers and reasons below)
Party:		
Attorney:		
Firm:		
Address:		
Phone:		
Dated: _____ Signature: _____		

Name, Address & Telephone Number of Attorney		
Attorney for: _____		
<b>SUPERIOR COURT OF THE STATE OF CALIFORNIA</b> <b>COUNTY OF SAN LUIS OBISPO</b> <b>CERTIFICATE OF NONCOMPLIANCE PURSUANT TO RULE 19.00 AND ORDER</b>		
SHORT TITLE OF CASE:		CASE NUMBER:
DATE /PETITION/COMPLAINT FILED:		DATE RESPONSE/ANSWER FILED:

1. Certificate of Noncompliance pursuant to Family Law Policies and Procedures Manual, Section 2, VIII A 2 and Local Rule 19.00:
2. Type of case:
 

☐ Dissolution  
☐ Complaint to Establish

☐ Legal Separation  
☐ other: \_\_\_\_\_

☐ Nullity
3. ☐ **Filing of Joint At-Issue Memorandum with one signature**  
 Fifteen days have passed since I sent the joint at-issue to the opposing counsel/party in pro per. The party has refused or failed to sign the joint at-issue memorandum.  
 I request that the joint at-issue be filed with only one signature and that trial be set.
4. ☐ Both parties have filed their preliminary & final declaration of disclosure, if applicable.
5. ☐ **Time for signing Joint At-Issue Memorandum**  
 Attorney for \_\_\_\_\_ moves for an enlargement of time to comply with the requirement checked above.  
 It is anticipated that the noncompliance will be cured no later than \_\_\_\_\_  
 The circumstances preventing compliance are as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 It is requested that the court extend time for compliance to: \_\_\_\_\_
6. ☐ This matter will take \_\_\_\_\_ to try.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

Attorney for: \_\_\_\_\_

\_\_\_\_\_  
(Type Name)

### ORDER

- \_\_\_\_ Relief granted, joint at-issue to be filed and matter set for trial.
- \_\_\_\_ Relief granted, time extended for    ☐ 15 days    ☐ 30 days    ☐ 45 days
- \_\_\_\_ Other: \_\_\_\_\_

**YOU ARE ORDERED TO GIVE NOTICE OF THIS RULING TO ALL PARTIES.**

DATED: \_\_\_\_\_

\_\_\_\_\_  
JUDICIAL OFFICER OF THE SUPERIOR COURT

ITEMS OF PROPERTY	CONTENTIONS RE CHARACTER OF OWNERSHIP										CONTENTIONS RE POSSESSION				CONTENTIONS RE PROPERTY VALUE		ENCUM.	FOR COURT USE	
	HUSBAND					WIFE					HUSB.		WIFE		HUSB.	WIFE			
	C		HS		WS		O		C		HS		WS					O	
	C	HS	WS	O	C	HS	WS	O	H	W	O	H	W	O					
1.																			
2.																			
3.																			
4.																			
5.																			
6.																			
7.																			
8.																			
9.																			
10.																			
11.																			
12.																			
13.																			
14.																			
15.																			

C - COMMUNITY PROPERTY  
 HS - HUSBAND'S SEPARATE PROPERTY  
 WS - WIFE'S SEPARATE PROPERTY  
 O - OTHER

COUNSEL FOR HUSBAND: \_\_\_\_\_

COUNSEL FOR WIFE: \_\_\_\_\_

PETITIONER: RESPONDENT: OTHER:	CASE NUMBER:
--------------------------------------	--------------

## APPLICATION FOR SEPARATE TRIAL

Attachment to ☐ Order to Show Cause ☐ Notice of Motion  
(form FL-300) (form FL-301)

I, (name): \_\_\_\_\_, request that the court sever (bifurcate) and grant an early and separate trial on the following issue or issues:

1. a. ☐ Dissolution of the status of the marriage (Fam. Code, § 2337).  
I will serve with this application my preliminary *Declaration of Disclosure* and completed *Schedule of Assets and Debts* unless they have been previously served or the parties have stipulated in writing to defer service.
- b. ☐ I request the following conditions be made:
  - (1) ☐ That I indemnify and hold the other party harmless from "taxes, reassessments, interest, and penalties" payable in the event that a dissolution prior to the property division results in taxes that would not have been payable if the parties were still married at the time of the division.
  - (2) ☐ That I maintain health and medical insurance for the other party and minor children as long as possible, and then must obtain comparable coverage or pay any expenses that would have been covered by insurance.
  - (3) ☐ That I hold the other party harmless re probate homestead.
  - (4) ☐ That I hold the other party harmless re probate family allowance.
  - (5) ☐ That I hold the other party harmless re pension benefits, elections, or survivors' benefits.
  - (6) ☐ That I join the pension plan and, if the other party has a private plan covered by ERISA, will cause a Qualified Domestic Relations Order (QDRO) to be served on the plan.
  - (7) ☐ That I hold the other party harmless re social security benefits.
  - (8) ☐ Any other condition that the court determines is just and equitable.
2. ☐ Permanent custody and visitation of the children of the marriage.
3. ☐ Date of separation of the parties.
4. ☐ Alternate valuation date for property.
5. ☐ Validity of marital settlement agreement entered into prior to or during the marriage.
6. ☐ Other (specify): \_\_\_\_\_
7. a. ☐ I request that the court conduct this separate trial on the hearing date.  
or  
b. ☐ I will, at the hearing, ask the court to set a date for this separate trial.
8. The reasons in support of this request are (specify):  
☐ Points and authorities attached. ☐ Supporting declarations attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar no., and address):		FOR COURT USE ONLY
TELEPHONE NO.: FAX NO. (Optional):		
E-MAIL ADDRESS (Optional):		
ATTORNEY FOR (Name):		
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO</b> STREET ADDRESS: COUNTY GOVERNMENT CENTER MAILING ADDRESS: 1035 Palm Street, Room 385, CITY AND ZIP CODE: San Luis Obispo, CA 93408-2500 BRANCH NAME: web site: www.slocourts.net		
MARRIAGE OF		CASE NUMBER:
PETITIONER:		
RESPONDENT:		
CLAIMANT:		
<b>REQUEST FOR JOINDER OF EMPLOYEE BENEFIT PLAN AND ORDER</b>		

## TO THE CLERK

1. Please join as a party claimant to this proceeding (specify name of employee benefit plan):

2. The pleading on joinder is submitted with this application for filing.

Dated:



(SIGNATURE OF ☐ ATTORNEY FOR)  
☐ PETITIONER ☐ RESPONDENT

(TYPE OR PRINT NAME)

## ORDER OF JOINDER

## 3. IT IS ORDERED

- a. The claimant listed in Item 1 is joined as a party claimant to this proceeding.
- b. The pleading on joinder be filed.
- c. Summons be issued.
- d. Claimant be served with a copy of the pleading on joinder, a copy of this request for joinder and order, the summons, and a blank *Notice of Appearance and Response of Employee Benefit Plan* (form FL-374).

Dated:

Clerk, By \_\_\_\_\_, Deputy





PETITIONER:	CASE NUMBER:
RESPONDENT:	

4. Petition for dissolution ☐ and response states

- a. Date of marriage:
- b. Date of separation:

5. ☐ Response states

- a. Date of marriage:
- b. Date of separation:

6. Judgment:

- a. ☐ has not been entered
- b. ☐ was entered on (date):
  - (1) ☐ and disposes of each spouse's interest in the employee benefit plan.
  - (2) ☐ and does not dispose of each spouse's interest in the employee benefit plan.

7. The following relief is sought:

- a. ☐ An order determining the nature and extent of both employee and nonemployee spouse's interest in employee's benefits under the plan.
- b. ☐ An order restraining claimant from making benefit payments to employee spouse pending the determination and disposition of nonemployee spouse's interest, if any, in employee's benefits under the plan.
- c. ☐ An order directing claimant to notify nonemployee spouse when benefits under the plan first become payable to employee.
- d. ☐ An order directing claimant to make payment to nonemployee spouse of said spouse's interest in employee's benefits under the plan when they become payable to employee.
- e. ☐ Other (specify):

f. Such other orders as may be appropriate.

Dated:

\_\_\_\_\_  
 (SIGNATURE OF ☐ ATTORNEY FOR)  
  
☐ PETITIONER      ☐ RESPONDENT  
  
 \_\_\_\_\_  
 (TYPE OR PRINT NAME)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state the number, and address):		FOR COURT USE ONLY
TELEPHONE NO. (Optional): FAX NO. (Optional):		
E-MAIL ADDRESS (Optional):		
ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO STREET ADDRESS: COUNTY GOVERNMENT CENTER MAILING ADDRESS: 1035 Palm Street, Room 385 CITY AND ZIP CODE: San Luis Obispo, CA 93408-2500 BRANCH NAME: web site: www.slocourts.net		
MARRIAGE OF PETITIONER: RESPONDENT: CLAIMANT:		
SUMMONS (JOINDER)		CASE NUMBER:

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

**(AVISO)** Usted ha sido demandado. El tribunal puede decidir contra Ud. sin audiencia a menos que Ud. responda dentro de 30 días. Lea la información que sigue.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response or pleading, if any, may be filed on time.

Si Usted desea solicitar el consejo de un abogado en este asunto, debería hacerlo inmediatamente, de esta manera, su respuesta o alegación, si hay alguna, pueda ser registrada a tiempo.

1. ☐ TO THE ☐ PETITIONER ☐ RESPONDENT ☐ CLAIMANT

A pleading has been filed under an order joining (name of claimant):

as a party in this proceeding. If you fail to file an appropriate pleading within 30 days of the date this summons is served on you, your default may be entered and the court may enter a judgment containing the relief requested in the pleading, court costs, and such other relief as may be granted by the court, which could result in the garnishment of wages, taking of money or property, or other relief.

2. ☐ TO THE CLAIMANT EMPLOYEE BENEFIT PLAN

A pleading on Joinder has been filed under the clerk's order joining (name of employee benefit plan):

as a party claimant in this proceeding. If the employee benefit plan fails to file an appropriate pleading within 30 days of the date this summons is served on it, a default may be entered and the court may enter a judgment containing the relief requested.

Dated:

Clerk, By \_\_\_\_\_, Deputy

3. NOTICE TO THE PERSON SERVED: You are served

- a. ☐ As an individual.  
 b. ☐ As (or on behalf of) the person sued under the fictitious name of:  
 c. ☐ On behalf of:

Under: ☐ CCP 416.10 (Corporation)  
☐ CCP 416.20 (Defunct Corporation)  
☐ CCP 416.40 (Association or Partnership)  
☐ Other:

☐ CCP 416.60 (Minor)  
☐ CCP 416.70 (Incompetent)  
☐ CCP 416.90 (Individual)  
☐ FC 2082 (Employee Benefit Plan)

- d. ☐ By personal delivery on (date):

(SEAL)

# PROOF OF SERVICE—SUMMONS (JOINDER)

(Use separate proof of service for each person served)

1. I served the

- a. Summons and (1) ☐ Request for Joinder of Employee Benefit Plan and Order, Pleading on Joinder—Employee Benefit Plan, blank Notice of Appearance and Response of Employee Benefit Plan  
 (2) ☐ Notice of Motion and Declaration for Joinder (3) ☐ Order re Joinder  
 (4) ☐ Pleading on Joinder (specify title):  
 (5) ☐ Other:

b. On (name of party or claimant):

c. By serving (1) ☐ Party or claimant. (2) ☐ Other (name and title or relationship to person served):

d. ☐ By delivery at ☐ home ☐ business (1) Date of:  
 (2) Time of: (3) Address:

e. ☐ By mailing (1) Date of: (2) Place of:

2. Manner of service: (check proper box)

- a. ☐ Personal service. By personally delivering copies. (CCP 415.10)  
 b. ☐ Substituted service on corporation, unincorporated association (including partnership), or public entity. By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(a))  
 c. ☐ Substituted service on natural person, minor, incompetent, or candidate. By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b)) (Attach separate declaration or affidavit stating acts relied on to establish reasonable diligence in first attempting personal service.)  
 d. ☐ Mail and acknowledgment service. By mailing (by first-class mail or airmail) copies to the person served, together with two copies of the form of notice and acknowledgment and a return envelope, postage prepaid, addressed to the sender. (CCP 415.30) (Attach completed acknowledgment of receipt.)  
 e. ☐ Certified or registered mail service. By mailing to address outside California (by registered or certified airmail with return receipt requested) copies to the person served. (CCP 415.40) (Attach signed return receipt or other evidence of actual delivery to the person served.)  
 f. ☐ Other (specify code section):  
☐ Additional page is attached.

3. The notice to the person served (Item 3 on the copy of the summons served) was completed as follows (CCP 412.30, 415.10, and 474):

- a. ☐ As an individual.  
 b. ☐ As the person sued under the fictitious name of:  
 c. ☐ On behalf of:  
 Under: ☐ CCP 416.10 (Corporation) ☐ CCP 416.60 (Minor)  
☐ CCP 416.20 (Defunct Corporation) ☐ CCP 416.70 (Incompetent)  
☐ CCP 416.40 (Association or partnership) ☐ CCP 416.90 (Individual)  
☐ FC 2062 (Employee Benefit Plan)

d. By personal delivery on (date):

4. At the time of service I was at least 18 years of age and not a party to this action.

5. Fee for service: \$ .....

6. Person serving

- a. ☐ Not a registered California process server.  
 b. ☐ Registered California process server.  
 c. ☐ Exempt from registration under Bus. & Prof. Code 22350(b).  
 d. ☐ California sheriff, marshal, or constable.  
 e. Name, address, telephone number, and, if applicable, county of registration and number:

I declare under penalty of perjury that the foregoing is true and correct and that this declaration is executed

on (date): at (place):  
 , California.

(For California sheriff, marshal, or constable use only)

I certify that the foregoing is true and correct and that this certificate is executed on (date):

at (place): , California.

(Signature)

(Signature)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number and address):		FOR COURT USE ONLY
TELEPHONE NO. (Optional): FAX NO. (Optional):		
E-MAIL ADDRESS (Optional):		
ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN LUIS OBISPO STREET ADDRESS: COUNTY GOVERNMENT CENTER MAILING ADDRESS: 1035 Palm Street, Room 385, CITY AND ZIP CODE: San Luis Obispo, CA 93408-2500 BRANCH NAME: web site: www.slocourts.net		CASE NUMBER:
MARRIAGE OF		
PETITIONER:		
RESPONDENT:		
CLAIMANT:		
NOTICE OF APPEARANCE <input type="checkbox"/> AND RESPONSE OF EMPLOYEE BENEFIT PLAN		

1. An appearance in this proceeding is entered by claimant employee benefit plan (name):

2. Service on claimant may be made as follows

a. ☐ Attorney for claimant (name, address, and telephone number):

b. ☐ Other (name, title, address, and telephone number):

3. ☐ Claimant responds to the pleading on joinder and states that the allegations of the pleadings are

a. ☐ correct

b. ☐ Incorrect as set forth in ☐ attachment 3b or ☐ as follows (specify):

Dated:

Claimant

(TYPE OR PRINT NAME)

By

(SIGNATURE)

Form **8332**

(Rev. June 1984)

Department of the Treasury  
Internal Revenue Service

Name(s) of parent claiming exemption

**Release of Claim to Exemption  
for Child of Divorced or Separated Parents**

▶ ATTACH to noncustodial parent's return EACH YEAR exemption claimed.

OMB No. 1545-0043

Attachment  
Sequence No. 31

Social Security Number

**Part I Release of Claim to Exemption for Current Year**

I agree not to claim an exemption for \_\_\_\_\_

Name(s) of child (or children)

for the tax year 19\_\_\_\_.

Signature of parent releasing claim to exemption

Social Security number

Date

If you choose not to claim an exemption for this child (or children) for future tax years, complete Part II.

**Part II Release of Claim to Exemption for Future Years (If completed, see Noncustodial Parent below.)**

I agree not to claim an exemption for \_\_\_\_\_

Name(s) of child (or children)

for the tax year(s) \_\_\_\_\_

(Specify, see instructions.)

Signature of parent releasing claim to exemption

Social Security number

Date

**General Instructions**

**Paperwork Reduction Act Notice.**—We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Internal Revenue Code section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: Recordkeeping, 7 min.; Learning about the law or the form, 5 min.; Preparing the form, 7 min.; and Copying, assembling, and sending the form to the IRS, 14 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.

**Purpose of Form.**—If you are a custodial parent, you may use this form to release your claim to your child's exemption. To do so, complete this form and give it to the noncustodial parent who will claim the child's exemption. Then, the noncustodial parent must attach this form or a similar statement to his or her tax return EACH YEAR the exemption is claimed.

You are the custodial parent if you had custody of the child for most of the year. You are the noncustodial parent if you had custody for a shorter period of time or did not have custody at all.

Instead of using this form, you (the custodial parent) may use a similar statement as long as it contains the same information required by this form.

**Children of Divorced or Separated Parents.**—Special rules apply to determine if the support test is met for children of parents who are divorced or legally separated under a decree of divorce or separate maintenance or separated under a written separation agreement. The rules also apply to children of parents who did not live together at any time during the last 6 months of the year, even if they do not have a separation agreement.

The general rule is that the custodial parent is treated as having provided over half of the child's support if:

1. The child received over half of his or her total support for the year from both of the parents, AND

2. The child was in the custody of one or both of his or her parents for more than half of the year.

**Notes:** Public assistance payments, such as Aid to Families with Dependent Children, are not support provided by the parents.

If both 1 and 2 above apply, and the other four dependency tests in your tax return instruction booklet are also met, the custodial parent can claim the child's exemption.

**Exception.** The general rule does not apply if any of the following apply:

• The custodial parent agrees not to claim the child's exemption by signing this form or similar statement. The noncustodial parent must attach this form or similar statement to

his or her tax return for the tax year. See Custodial Parent later.

• The child is treated as having received over half of his or her total support from a person under a multiple support agreement (Form 2120, Multiple Support Declaration).

• A pre-1985 divorce decree or written separation agreement states that the noncustodial parent can claim the child as a dependent. But the noncustodial parent must provide at least \$800 for the child's support during the year. This rule does not apply if the decree or agreement was changed after 1984 to say that the noncustodial parent cannot claim the child as a dependent.

**Additional Information.**—For more details, get Pub. 804, Divorced or Separated Individuals.

**Specific Instructions**

**Custodial Parent.**—You may agree to release your claim to the child's exemption for the current tax year or for future years, or both.

• Complete Part I if you agree to release your claim to the child's exemption for the current tax year.

• Complete Part II if you agree to release your claim to the child's exemption for any or all future years. If you do, write the specific future year(s) or "all future years" in the space provided in Part II.

**Noncustodial Parent.**—Attach Form 8332 or similar statement to your tax return for the tax year in which you claim the child's exemption. You may claim the exemption only if the other four dependency tests in your tax return instruction booklet are met.

**Notes:** If the custodial parent completed Part II, you must attach a copy of this form to your tax return for each future year in which you claim the exemption.

Cat. No. 13810F

Form 8332 Rev. 8-84